

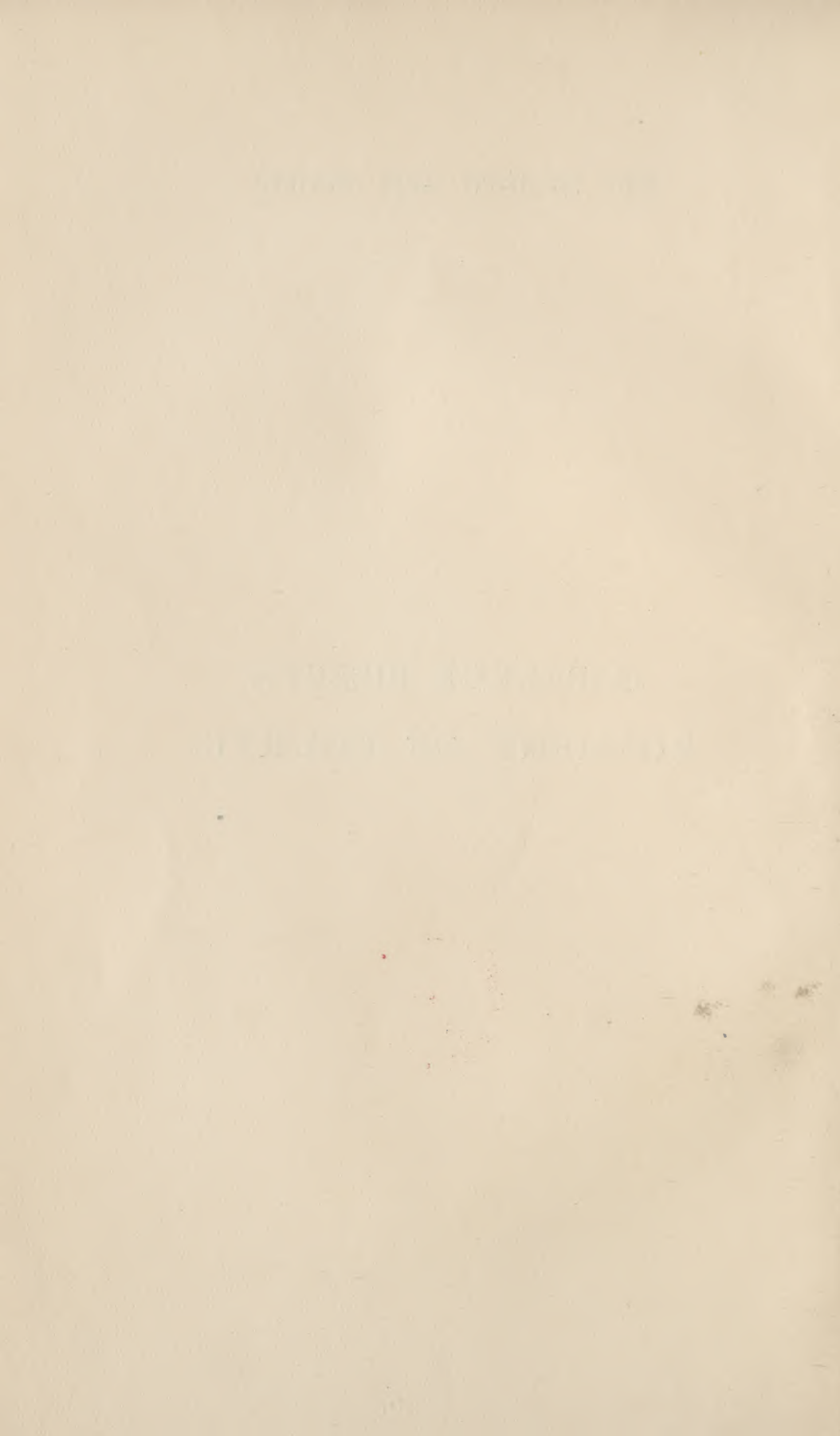
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The Scottish Text Society

HABAKKUK BISSET'S
ROLMENT OF COURTIS



X

Habakkuk Bisset's Rolment of Courtis

EDITED BY

SIR PHILIP J. HAMILTON-GRIERSON, LL.D.

VOL. I.



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PREFATORY NOTE.

THERE are two MSS. of Bisset's work, both of which are in his own handwriting. The earlier MS. (No. 395) belongs to the University of Edinburgh, the later (25.5.4) to the Faculty of Advocates; and to these learned bodies the thanks of the Society are due for their courtesy in permitting transcripts to be made, and in affording every facility for the comparison of these transcripts with the originals.

The relation of the later to the earlier MS. is clearly indicated in a supplication presented by Bisset to the Privy Council in 1626, and quoted in the biographical note below. The later is not a mere copy of the earlier MS. It contains many additions to it, and omits some portions of it, notably the last portion of the catalogue of the popes, which forms the concluding section of the work.

The later MS. has been taken as the basis of the text of the present edition. The portions of the earlier MS. not contained in the later MS. are printed within rectangular brackets. Where the earlier differs from the later MS., the differences, where they are of any importance either on linguistic or other grounds, are noted.

Bisset's punctuation and his use of capital letters have been retained unaltered.

The transcript has been made by Mr John Macleod; and the Society is greatly indebted to Mr Angus, chief clerk in the Record Department of H.M. Register House, Edinburgh, for his collation of it with the originals, for the expansion of the contractions,—the expansions being indicated by italics,—and for the correction of the proofs.

This edition will be completed in three volumes, of which the first and second will contain the text. The third will contain the editor's introduction and notes, and indices which will replace Bisset's table of contents.

In writing his notes, the editor has frequently been faced with questions of great doubt and difficulty. For help and counsel in considering and dealing with these he is especially indebted to Professor R. K. Hannay. He desires to tender his grateful thanks to him, and to Dr Maitland Thomson, Dr Hay Fleming, Dr Neilson, Professor W. A. Craigie, Dr Walter Seton, Professor Gregory Smith, and Sheriff J. R. N. Macphail, for their valuable assistance on many special points. He desires also to thank Dr W. K. Dickson, Keeper of the Advocates' Library, and his Staff for their ready help and guidance.

BIOGRAPHICAL NOTE.

HABAKKUK or Abacuck Bisset is said to have been the son of Queen Mary's caterer. His father 'acquaintinge the 'Queene that he had a chylde to Baptize, shee then beinge 'to go to Mas sayd since hee desired hir to give the name 'the first name she cast up it should be it which was the 'prophet Abacucke.'¹ We know nothing of his upbringing and education, and little of his family life. He was married,—his wife's name being Agnes Wedderburn,² and we hear of a son named Thomas.³ He tells us that in the year 1582 or 1583 he was employed as a copyist by Sir James Balfour; and he also states that he had made several copies of Balfour's *Practicks*. Before 1587 he had become a Writer to the Signet. In that year he brought a complaint before the Privy Council, with the concurrence of the King's Advocate and the conservator of the privileges of the College of Justice, charging Robert Hamilton, apparent of Prestoun, and Mr Patrick Hamilton, brother of Hamilton of Prestoun, with assaulting him in St Giles' Church in Edinburgh.

¹ The authority for this statement is a note on Bisset's MS. written in a later hand.

² In the *Edinburgh Register of Inhibitions*, 1595, vii. 200 *Aberdeen Register of Hornings*, (1593), ix. 70.

³ *Register of the Privy Council*, vii. 676.

Bisset's story was that the Hamiltons, having conceived 'ane deidlie feid and haitrent' against him on account of his actings as agent in some law proceedings, 'bosted and schored . . . to have tane his lyff.' He, conscious of his innocence of any offence, thought the matter was at an end. But on the 23rd of July, the Hamiltons came to St Giles' Church, 'bodin in feir of weir, with 'swerdis, pistollettes and utheris waponis invasive, and 'thair, finding the said Abacucke gangand in peceable and 'quiet maner a little befor fyve houris at evin, awaiting 'upoun the ringing of the fyve houris bell to the evening 'prayeris, quhair he wes myndfull to have said his prayeris 'to God, conforme to his accustomed use, having na 'sward, waponis nor armour, bot purpossing to have 'leavit undir Godis peax and his Majesteis, being within 'the tyme of Parliament, . . . sett upoun the said 'complener in the said kirk, and brak his heid first with 'the plumbattis or gairdis of ane of thair swerdis to the 'effusioun of his blude, and thaireftir, he fleand away 'frome thame furth at the West Kirk dure of the said kirk, 'thay followit him, and in the portche or throwgang of 'the said West Kirk dure invadit and struke him with 'drawne swerds, quhairthrow thai or ather of thame, con- 'currend togidder, cruellie woundit him in the left hand, 'and hes mutilat and dismemberit him of the haill foure 'fingers of the left hand,—at the leist, hes dismemberit 'him of ane joint of the foirrest fingare thair of and of 'the haill twa middest fingeris, and mutilat and dis- 'memberit him also of the litill fingare thair of.'¹ The Hamiltons did not appear and were denounced as rebels.² In December of the same year John Hamilton was

¹ *Register of the Privy Council*, iv. 204 f.

² *Ibid.*, iv. 205.

liberated from the Castle of Blaknes, where he had been committed to ward until his trial, Bisset having failed to show cause to the contrary.¹ In 1593 Patrick Hamilton was still unrelaxed;² and it is doubtful whether Bisset ever obtained any satisfaction for his injuries. He himself tells us that he was at Rouen in 1588; but he gives no details as to the length or the purpose of his visit.³ In 1596 he was involved in legal proceedings in which he was unsuccessful,⁴ and in 1602 he was surety for Mr George Bisset of Eastfield, Andrew Bisset, fiar thereof, and others, that they would pay £30 for their goods escheated for non-payment of the taxation of their lands lying within the county of Aberdeen.⁵ This notice suggests that Bisset was an Aberdeenshire man and was in some way connected with a well-known Aberdeenshire family; and the fact that he resided in Aberdeen⁶ is at least not adverse to the suggestion. In 1607 Bisset himself is described as 'auld Lady Edzellis pensionar.'⁷ In 1608 Bisset charged Mr William Reid, notary, Aberdeen, with assaulting him on his way to church on a proclaimed fast day, and alleged not only that he had been severely injured, but that his assailant laid in wait for him so that he dared not remain in Aberdeen, the place of his residence, for fear of his life.⁸ The charge failed, and Bisset then raised criminal letters charging Reid and his wife to answer before the

¹ *Register of the Privy Council*, iv. 239. ² *Ibid.*, v. 65, 87, 591, 594, 605.

³ See page 6 below.

⁴ *Register of the Privy Council*, v. 310.

⁵ *Ibid.*, vi. 771 f.

⁶ *Ibid.*, viii. 115.

⁷ *Ibid.*, xiv. 602. Sir David Lindsay of Edzell married, secondly, Isabel, daughter of Arthur Forbes of Balfour, widow of Alexander Innes of Crombie (*The Scots Peerage*, Edinburgh, 1904-14, i. 513).

⁸ *Ibid.*, viii. 115, 130.

Justice at Edinburgh for the crime of adultery. The Lords found that Bisset had behaved himself 'verie maliciouslie,' and therefore 'verie shairplie' admonished him to forbear such form of doing in the future.¹ In the same year Bisset brought another complaint of assault;² and in 1610 he was suspended from exercising his office by the society to which he belonged. On the 9th March of that year the Commissioners³ ordained that no ordinary Writer to the Signet in time of session be found within the burgh of Edinburgh 'upon the gate' without having his gown upon him, under pain of deprivation; and that no ordinary writer in time of session be found drinking in taverns, under the pain of five pounds *toties quoties*. 'The quhilk day Abacuk Bisset being convenit as alleging him to be ane ordinar writer to the signet and yit making his residence in Aberdene, the said Abacuk comperit and declairit that tuiching his residence in Aberdene he had ane dispensation; and being demandit quhairfore he had na gowne according to the ordour, he said he had provydit nane.' The Commissioners forthwith suspended him until he reported 'ane new testimoniall of my lord secretar.'⁴ In 1613, Bisset having given in a supplication narrating that he was suspended from writing, and that he desired to be reponed so as to 'use the said office alsweill within the burgh of Edinburgh as furth thairrof, notwithstanding the actis maid in the

¹ *Register of the Privy Council*, viii. 135.

² *Ibid.*, viii. 659.

³ Commissioners were appointed in 1594 to deal with and remedy abuses; and certain injunctions by the Lord Secretary were made obligatory upon all Writers to the Signet (*History of the Society of Writers to H.M. Signet*, Edinburgh, 1890, p. 229).

⁴ *Ibid.*, p. 244.

‘contrair,’ the Commissioners, being advised, suspended him ‘as of befor quhill he keip oppin buith.’¹

Bisset informs us that Sir John Skene had given him a testimonial of having been ‘in his company’ for many years, and especially during the four years preceding 1613, when Sir John caused him to write ‘the formes of deductioun of all processis in civile actionis presentlie used and observed befor the lordis of his maiesties counsall and sessioun and utheris judges within his hienes Kingdome of Scotland, Togiddir with the auld formes and processis of falsing of domes, the proces of the breif of perambulation, the proces of the breve of division, the proces betuix the lord and the tennent, the proces of schawing of halding and the proces of purpresture Collected and extracted furth of the registeris, lawes, statutis and actis of the Kingdome of Scotland, and statutis of the saidis lordis of counsall (and sessioun) contened in thair buikis and registeris callit the sederunt buikis quhairin the saidis lordis actis and statutis ar written and inserte, and ar extracted furth thair of be the said clerk register begun in marche . . . ane thowsand sex hundreth neyne 3eiris fairsaid and revised and corrected be him and me the writtare thair of thaireftir in December and Januare The 3eir of God ane thowsand sex hundreth and twelf 3eiris fairsaid As the originall warrand beiris beand notted and written be the said clerk registeris awin hand wreit on the mergynis thair of. Perused and conferred togidder be him and me the writtar fairsaid

¹ *Ibid.*, p. 248. The eighth of the injunctions referred to in note 3 on the preceding page was that the writers ‘salbe friemen, keip oppin buithis specialle await and attend upon thair buithis and vocation . . .’ (*Ibid.*, p. 231.)

‘Aggreand with the saidis registeris, statutis and civile
‘lawes.’¹

During the years 1613-22 Bisset employed himself in making additional collections, and it was his intention to publish these and the treatise in the form of a single work. He completed his first draft in 1622, and some years later prepared a second draft, in which the first was corrected and amplified. These drafts still exist, and their relation to one another is set forth in a supplication presented by Bisset to the Privy Council in 1626.² It proceeds upon the narrative that he had been, in their lordships’ knowledge, ‘exercisit thir mony yeiris
‘bygane in collecting and putting togiddir in ane buik
‘of aucht quair of paper or thairby concerning all the
‘maist ancient monumentis and antiquities of this king-
‘dome, quhairof be inequitie of tyme and uthir incon-
‘venientis the recordis quhairof hes bene destroyit and
‘decayit.’ For some years past he had received a payment of £100 Scots for his literary labours from the Lord Treasurer, ‘and now sen his most gracious and
‘clement majesties succedis eftir his umquhill darrest
‘father quha restis with God, quhome to I wes of inten-
‘toun to have dedicate and presenttit these my panefull
‘labouris, quhais lamentabill inlaik and deceis (allace!)
‘hes movit me to writ the same our agane mair amplie
‘to be deducate and presenttit to his maist sacreit
‘Majestie that now is, quhais hienes, I dout nocht, will
‘accept of the same as his umquhile darrest father wald
‘have done; and becaus I want expenses to writ and
‘present the same wark to his hienes in wreit as I suld

¹ See p. 74 below.

² *Register of the Privy Council*, 2nd Series, viii. 368.

'have done to his hienes umquhile darrest father, as 'patrone of all sic warkis,' he craves them to grant him an allowance for the accomplishment of his purpose.

This notice is the last we have concerning Bisset. He has been described as 'a rather quaint and crabbed character,'¹ and as 'one of the greatest oddities of his 'time,'² and certainly the reports of the law proceedings in which he was involved do not present him in a favourable light.

Bisset's style reflects his peculiarities. He tells us that it was his aim to avoid all affectations and exaggeration of language, and to use 'pithie, shorte and compendious 'termes and clene dictionare according to' his 'simpill 'judgment and knowlege.'³ We cannot say that he has been completely successful, for the natural bent of his mind towards strange and curious turns of expression shows itself repeatedly in the course of his work. He was an inaccurate copyist, and his system of punctuation, if system it can be called, is entirely his own. His translations from the French and Latin show that he was but slightly acquainted with those languages. Indeed, his paraphrase of the 'Processus super Bulla 'Confirmationis Collegii Justiciæ,'⁴ contains such serious errors that it is wholly unreliable. We have printed it only because it is of some linguistic interest. All who desire to acquaint themselves with the contents of the document are warned to turn to the original Latin.

¹ Professor Masson's introduction to volume iv. of the *Register of the Privy Council*, p. xxxii.

² *History of the Society of Writers to the Signet*, p. 18.

³ See p. 77 below.

⁴ See p. 88 below. The document is printed in the appendix to *The Acts of Sederunt from May 1532 to January 1553*, with a preface by Sir Ilay Campbell, Edinburgh, 1811.

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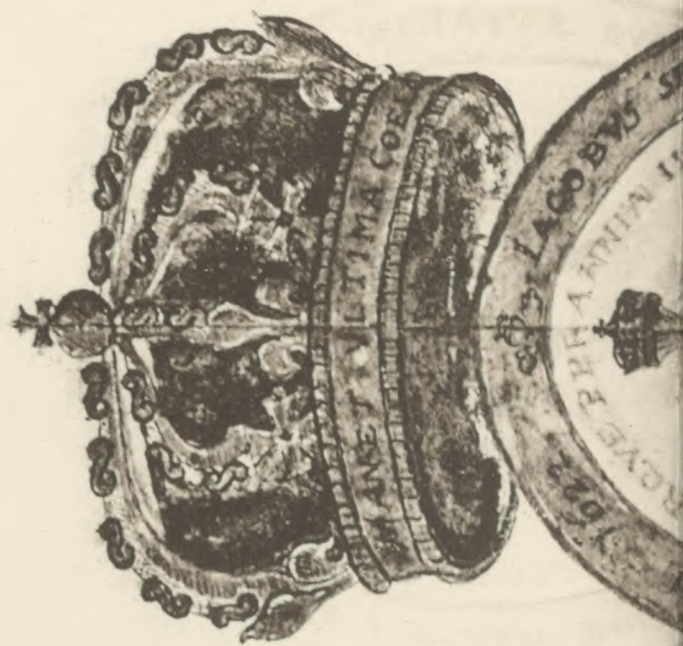
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Coat of Arms in the Edinburgh University MS.

ROLMENT OF COURTIS.

The Author's name was Abacuck Byssett his ffather was Cater to Queene Marye, & hee acquaintinge *the* Queene *that* hee had a chylde to Baptize, shee then beinge to goe to Mas sayd since hee desired hir to
5 give *the* name *the* first name shee cast up it should bee it, which was *the* Prophet Abacucke. hee was servant to Schir John Skeane lived longe & writt this booke in his ould age with his owne hand.¹

10 [The inscription and tytill of this book In the schortes and best termes etc. to be followed etc.

The rolment of courtis, Contenand, the auldest lawes, actis, statutis constitutionis monumentis and antiquities, of the maist ancient Realme of Scotland as
15 ane frie Kingdome, Conformed to the Civile, canoun emperiall, and Municipall lawes; aggreand with the actis statutis and constitutioun of the said Kingdome: With choronologie of the Kingis and princes, erectaris of the Kirkis and ecclesiasticall prelacies within the
20 landis and boundis thereof of auld. Item the ecclesiasticall jurisdiction, and proceeding befor there ordinare judges of the samyn / The admirall and Sea lawes with

¹ This is in a later hand.

jurisdiction thereof: The erectionis and privilegis of burrowes; Togidder with a *computation* of the tymes of paipis, Archibischopis, Bischopis, Christiane Emperouris and Scottis Kingis in there severall tymes and regnes etc. 5

Laitlie wreittin Collected and set furth be: A. B. Edinburgensis Nevir Imprintted nor published of befoir etc. A.B.

Lyke as Hilkeauch fand the book of the law, quha delyverit the samin To Shaphan the chancellare, and 10 he nocht onlie caused cary it, to the King Josiauch, bot caused reid the samin to the King himself quha repented eftir the heiring red the wordis of the law, and obey it in all poyntis. 2 Cornic. c. 34. 2 Kingis c. 22. vers. 8. Dewt. 17, 28. 15

Evin so lykewyis I Abacuch bisset hes delyverit This writtin buik of *the* lawes of the Kingdome of Scotland collected and writtin be me To the *rycht* honourell Schir George Hay his maiesties heich Chancellare of the said Kingdome dedicate be me To his moist sacreit 20 hienes etc. Oure dred soverane lord and king his maiestie Charles *the* first of that name king of greit Brytan ffrence and Ireland etc. To the effect foirsaid. God keip and preserve his maiestie etc. To his everlasting glorie and *comforte* of all his trew subiectis 25 Amen. A. B.]

[The inscription or tytill of this booke. This is best at the imprintting to be used.]

The rolment of courtis, Contenand the auldest lawis, actis, statutis, constitutionis, and antiquities, of his 30 majesties native, and maist ancient realme of Scotland, as ane frie Kingdome, Conformed to the imperiall civile, *cannonis* and municipall, *roman commoun* lawis, Alsweill in ecclesiasticall, as civile materis, according to

the actis, statutis, and ordinances of the said Kingdome;
with choronologie, of the Scottis Kingis & princes,
erectaris of the Kirkis, and ecclesiasticall prelacies
within the boundis and landis of there dominionis
5 thereof for the tyme; Item the ecclesiasticall jurisdic-
tioun, and proceeding befor *thair* ordinare judges; The
admirall and sea lawis, and there jurisdiction; The
erection & privilegis of burrowis, Togidder *witht*
a computatioun of the tymes of the apostolis, disciplis,
10 doctouris of *the* kirk, and uthiris ecclesiasticall
prelatis, bischopis, paipis, romane christiane emperi-
ouris and Scottis Kingis, in there severall tymes and
regannes etc. Laitlie collected, writtin and set furth
be [me] A. B. Edinburgensis: Nevir Imprinted nor
15 publeist of befor etc. A. B.

[Half of folio 1 blank.]

[ANNO DOMINI 1622].

IN LIBRI FRONTISPICIUM,

Fol. 2.

It is to be remembrit, that the Kingdome of Scotland,
20 hes bene ane frie Kingdome: Sen fferguse *the* first
King of Scottis, quha began to regnne about the be-
gynning of the thrid monarchie of the gretianis, quhen
Alexander the greit king of macedon, alias called the Josphe.
conquerioure overthrew, Darius Codomannus, [the last fl. a. lib.
vi.¹
25 monark of persia] befor Christ his nativitie thrie [J. Josep. li.
hundreth and threttie 3eiris; And sua Scotland hes 11. c. 8.]
bene ane frie Kingdome thir nynetene hundreth fyftie 330.
and Sex 3eiris. Lyke as in King Metellanus, the sevin- 1956.

¹ MS. cut away at edge of leaf.

tene King of Scottis, and *fourt* 3eir of his regnne, quha
 3966. began to regnne in the 3eir of the warld : thrie thowsand
 nyne hundreth thrie scoir and sex 3eiris, and regned
 threttie nyne 3eiris, That holie Messias, oure blissed
 salvioure, and redemare come bodilie in this warld : 5
 42 3eir of Augustus Cesare beand Emperioure ; he wes crucified,
 hisempyre. died, and buryed, for oure redemptioun, in the threttie
 Pol. Virg. thrid [3eir] of his aige with sum mair : viz. ane quarter
 lib. 4. c. 1. 3eir or thairby, quhilk compleittit the threttie fourt 3eir,
 eftir his incarnatioun, in the blissed virgenis wame, and 10
 conception be the halie spreit, and last 3eir of the
 threttie nynt of Mettellanus regnne, And King Caractacus
 the aughtene, Scottis King quha began in the 3eir of
 Christ threttie fywe, 3eiris and regned twentie 3eir^{is},
 as succedand, to King Mettellanus his mother brother ; 15
 and sua, the threttie fourt 3eir eftir his blissed incarna-
 tioun, and first 3eir eftir his crucifixioun, *quhilk* wes
 the threttie fyft 3eir, eftir his conceptioun. It is agreed
 upoun, be all awtentick historiographour^{is} that this
 Caractacus wes takin to Rome in the ellevint 3eir of 20
 his regnne, *quhilk* wes the twelt 3eir, or thairby eftir
 46. oure blissed salviour wes crucified, and sua fourtie sex
 3eiris eftir his incarnatioun, And become ane Christiane,
 befor the King of ffrance ressaved christianitie. ffor
 Pontius Pylat, that wes iuge beand ane franche man, 25
 borne in Vien ane vilage toun besyde Lyonis in france,
 quhais house and possessioun as I am credable informed,
 Monsueir Pila 3it bruikis (at the leist schorte space of
 tyme sence) bot because he thinkis nocht weill of his
 antecessour^{is} surname he hes deminisit the last lettir 30
 thairof, fra Pilat to Pila, maid adverteisment to Vindax
 than governoure, of gallia, or ffrance, for the tyme of
the death of oure blissit salvioure Calling him the greit
 prophet of God, and it is reportit, that he *thaireftir*,
 become the maist Christiane King ; bot lang befor 35
 that, it is trew that *this* Caratactus *our* scottis king,
 wes takin to rome, had Imbracit Christianitie, And the

antiquities, of the monumentis, of this Kingdome of Scotland takin furth of Edinburgh Scone, and Restennet, in King Edwarde *the* first his tyme: The 3eir of god ane thowsand, twa hundreth, foure scoir, and fyftene 1295.

5 3eir^{is}, or *thairby*, in tyme of weir betuix thir twa realmes, wald resolve *this mater*; quhilk war ane greit Monument of Scotlandis prioritie of Christianitie, gif these registeris of antiquities, mycht be fundin 3it extant, to verifie *the premissis*: Seing nane, of the autentik, ancient writ-

10 taris of the antiquities, makis mentioun of the certantie Fol. 3. thairof, and of the ancient monumentis, and actis of the fourescoir and fyftene Kingis, of Scotland precedand King Alexander the thrid his tyme, and sex regentis *quha* governed togidder eftir him, and quhill *the* said

15 ane thowsand twa hundreth foure scoir and fyftene 3eir^{is} or *thairby*: Albeit my patrone and maister *Schir* 1295. Johnne skene of currehill *knycht*, ane of his maiesties maist honourabill counsalour^{is} of Scotland, that renowned lerned clerk of his hienes registeris and rollis

20 of the said Kingdome, in his choronologie of the Kingis of Scotland, alleges Donald the first, and twentie sevin scottis king, *quha* first caused *cunze* money of gold and silver wes the first Christian King, ane hundreth foure- 199. scoir, and nynetene, 3eir^{is} or *thairby*, eftir christis

25 incarnatioun: *quhas* opinioun is nocht to be reiected: 3it I hard him myself say; gif these monumentis, and registeris, of antiquities, of the kingdome of Scotland, micht be gottin extant, that King Caractacus wald be fund the first christiane scottis king, and that he wes

30 werray cairfull, uthirwyis to have gottin, the trew knau- lege, and certantie thairof, bot could nocht fynd *the* samⁱⁿ, be ressonne, of the want of the saidis registeris and roll^{is}; Johnne bischope of rose, that reverend father, deligent, and panefull, choronologiare, in his

35 stemmatt^{is} of the scottis kingis successioun, and of thair lyves, makis mentioun that it wes bot threttene hundreth^t, 3eir^{is}, with sum mair, sen it pleasit *the*

- guidnes of god, that *the* Kingdome of Scotland
 Imbraced *the* christeane faith, and had reiected, all
 1422. gentilisme; and it is now mair nor fourtene hundreth,
 and twentie twa¹ 3eiris, sen Donald the first his regnne
 foirsaid / Sua *that* he varies, and differris, mair nor sex 5
 scoir 3eiris fra my said patronis formare choronologie;
 bot it may be thocht, and appeiris weill, that the said
 reverend father, beand in *france* suffragant, for the
 bischope of rowane, *the* said bischope of rose, beand
 prioure of Equeis, in normandie, in france, quhair he 10
 ressavit greit benefitis, and courteous interteinment, the
 tyme of the writting, and setting furth, of *the* said
 stemmattis of choronologie; wald nocht meddill with,
 nor declair that mater according to his skilfull knowlege,
 anent the prioritie abonementatione, for maist ressonabill 15
 causis and considerrationis, than moving him. I harde
 myself the said reverend father say, At Rowane In the
 1588. 3eir of god ane thowsand, fywe hundreth, foure scoir,
 and *aucht*, 3eiris, That quhen he began to sett furth
 the said stemmatis of choronologie in England, in the 20
 1572. 3eiris of god ane thowsand, fywe hundreth, thriescoir,
 1573. twelf and threttene 3eiris, he wes put in strait waird, or
 prisone, callit littill ease, quhair he wrait his apologie,
 within the toure of londoun, and war nocht the inter-
 cessioun of the franche ambassadoure, it had coist him 25
 his lyfe speciallie for the writting, directing, and setting
 furth of the samyn, sua that he wes than stayed, and
 loissit sum of his skrollis, and paperis quhill he come
 to france, *quhair* he than ended, and fullilie compleitted,
the said choronologie, and caused Imprint *the* samyn, 30
 stemmattis At Rowane in scottis, latyne, franche,
 Italiane and spanis langagis, in Gregorius the threttene
 his tyme *the* twa hundreth and threttie paip or bischope
 of rome etc: 3it I have, observed, and remarked,
 Anent *the* prioritie of the Christianitie, of that Scottis 35
 King, That Caractacus wes takin to Rome the ellevint

¹ "thrie" in University Library copy.

zeir of his regne, quhilk wes the zeir of god fourtie 46.
and sex zeiris, twa zeiris eftir Sanct Petiris cummyng to
rome, and twelf zeiris eftir Christis passioun and thrie
zeiris eftir Claudius Vespacien, tuik the governament of
5 the empyre, quhais sone Vespacien thaireftir emperour,
appased the peopill of the wast and helped thame, Fol. 4.
beand trubled, be the germanis, and recovered thame
to the romane Impyre, as also he did Brytannie, for
the quhilk he maid his father, to triumphe without any
10 bluid or panes takin for it, and that lang befor the
pacifeing of these trublis in ffrance, quhilk wes in the
thriescoir ten and thriescoir ellevin zeiris or thairby, 70-71.
eftir Christ his incarnatioun, Quhen the foirsaid Vindax
togidder *witht* the nobilitie, of that cuntrie of Gallia,
15 adjacent with germanie quhome they partied, had
acknawleged the Imperiall Impyre, of these romane
emperour's Caractacus the scottis king wes at rome.
Lyke as Honorius primus, the thriescoir ellevin paip,
or bischope of rome The zeir of god sex hundreth, 622.
20 twentie twa [zeiris] In Donald the fourt his tyme
the fyftie thrid Scottis King quha regned The zeir of
god sex hundreth, threttie twa zeiris ane thowsand 632.
zeiris syne or thairby, Renowmed that scottis king
and utheris Kingis of Scotland with that maist godlie
25 and glorious name of dignitie, Calling thame, the pro-
tectouris, or defendaris, of the Christiane faith, quhilk
oure soverane lorde, his maiesties umquhill darrest
father, of all wirthiest memorie, maist happellie and Mira-
culeuslie succeded to and prased be god his maiestie,
30 that now is and his successioun, will bruik and juoyse
contrare the Invy, and despytfull malice, of all his
Innimies and evill willaris: Eftir Valerius gratus,
succeded Pontius pilat in the governament, of the
Jowes, the sevintene zeir eftir christ his nativitie, and
35 thaireftir Pilat at *command* of Vicellius consul and
Marcellus his friend returned to rome, to satisfie the
emperour in these thingis, quhairof the peopill had

- accused him, bot befor his arryving thair, Tiberius the
 39. Emperiour wes deid, Eftir christ his natyvetie threttie
 nyne 3eiris, or thairby *quhilk* wes fyve 3eiris eftir his
 crucefeing, and ten 3eiris eftir pilattis suiouring, in
 49. jurie *quhilk* makis fourtie nyne 3eiris, or thairby, It 5
 is sayd that thaireftir Pilat come to Vien in ffrance,
 quhair he wes borne, and biggit ane greit ludgeing,
 upoun his possessioun *thair*, and Pilate beand trublit
 and vexit in his spreit for his unjust sentence, and
 utheris his wrangus doingis: patt violent handis in 10
 him self, be meanis of devillische and *damnable* poysoun,
 and died thairof, [*uthirwyse* ex polycronycon li. 4. c. 7.
 fol. 151. Ewsebius and Beda writtis *that* pylot sleu
 him self *wit* his awin handis in disparatioun and *that*
 he wes borne in Lungdownous in france &c.] *quhilk* 15
 wes mair nor sextene or sevintene 3eiris or thairby,
 eftir christis his death and passioun, and sua fyftie
 ane 3eiris or thairby eftir his incarnatioun, or concep-
 tioun: And forther in the tyme of Evaristus Martir,
 the sext paip or bischope of rome Eftir Sanct Petir 20
 3 Julij 99. *the* thrid day of Julij The 3eir of god fourescoir and
 nynetene 3eiris. Sanct Guthagonus son to King
 Corbredus the secund, *alias* galdus Corbredus, the
 twentie ane scottis king wes confessoure in scotland:
 and wes banished furth thairof, in flanderis, for the 25
 christiane faith etc. As the *carmoun* thairanent beiris.
 Be the *quhilk* computatioun of tyme, It planelie
 appeiris, that King Caractacus the scottis king, wes
 at rome lang of befor, and wes ane christiane befor
the king of ffrance. I may nocht be curious, to 30
 insist forther in the declaratioun of the antiquities &
 prioritie of thir Monumentis, beand affrayed of censuring
 and reprehensioun thairanentis, for inlaik of the scottis
 registeris, and rollis foirsaidis / 3it may I receit, as
 200. witnessis, Tertulianus, that twa hundreth 3eiris befor 35
 400. ffrance, and foure hundreth 3eir befor spane, Donald

the first *the* twentie sevin scottis king wes the first
Christiane scottis king, quha regnned in 3ephærinus
martiris tyme, *the* sextent bischope of rome, eftir
Sanct Petir In the ane hundreth fourescoir and aughtene 198.
5 3eir of god. Ewsebius and plotina writtis, and testi-
fies, That [Sanct] Petir come to Rome in the secund Fol. 5.
3eir of Claudius Vespasiane emperieure, quhilk wes in
the 3eir of god fourtie and foure 3eiris: As also thair- 44.
eftir the departing of the apostolis in the haille world
10 to preich *the* Christiane faith, wes the fyftene day of 15 Julij 45.
Julij The 3eir of god fourtie, and fyve 3eiris Lyke as
[Sanct] Dionesius, discipill to Sanct Paule, and first
preichare of the *Evangel* in france,¹ and wes callit
the patrone of france The 3eir of god twa hundreth 260.
15 and thriescoir Albeit St. androw, the patroun of Scot-
land wes twa hundreth 3eiris or thairby of befor, As 200.
witnessis Sanct Dionise himself de ecclesie cap. 3.
And the said St androw patroun of Scotland, wes
lang of befor in the tyme of St Cletus the fourte
20 bischope of rome, the threttie, or last, day of November, 30 Novem-
The 3eir of god thriescoir, and sextene 3eiris, suffered *bris* 76.
maist crowall martirdome, under vespacien augustus
emperieur in Achaia the forsaid Corbredus the secund,
callit galdus *the* twentie ane scottis king for *the* tyme.
25 And wes canonised thairfoir as the samin beiris etc.
And this far permitted, be the patience, and guid
discreit considerratioun, of all godlie and Christiane
redaris, and for the forther informatioun, of the posteritie
heireftir, quha plesis, to serche out the suir certantie,
30 of *the* antiquities, and [ancient] monumentis, of this
oure souerane lordis his maiesties natyve and ancient
realme and kingdome of Scotland: Prayand [to] god
incessandlie dalie, and continewallie, for his maiesties,
lang and maist happie government unitie and concorde,

¹ "Quha wes thaireftir the twentie sext marterit bischope of rome" deleted.

amangis all his hienes kingdomes, and dominionis, to the glorie of god, his kirk, and *comforte* of all his trew and faithfull subiectis. Amen.

Sua I rest. *your* assured freind

A.B. 5

ANNOTATIO.

Johnne de Serres, In his Inventarie of the frenche histories, Translated out of frenche into Inglis, be Edwarde gramestoun, gentillman of England. Testifies and declairis, That Cloves, beand the fyft king of 10
 485. ffrance, succeded to his *father* Chilpric, The 3eir of god foure hundreth, foure scoir, and fywe 3eiris, and that he wes the first king of ffrance that ressaved the Christiane faith, and wes baptised, and sua amangis, uthir Christiane Kingis, wes nocht the first Christiane, 15
 45. bot is sayd to be *the* greittest, or maist Christiane King that ressaved *the* fayth: He regnned fourtie fywe 3eiris, 514. and ended in the 3eir of god ffywe hundreth and fourtene 3eiris &c. Leo 3eno the fourtie sext paip. Alias called Leo *magnus*, the first [to be paip] and Annas- 20
 tatus Emperiour for the tyme at the counsall of Calcedon as he alleges &c. And it appeiris that this counsall paip, [and] emperieure wes nocht these 3eiris, of god as he reportis; ffor Paip Leo the first, began 25
 440. in the 3eir of god foure hundreth and fourtie 3eiris, 460. And ended in the 3eir of god foure hundreth and thriescoir 3eiris, Lyke as the fourtt greit counsall wes 458. haldin At Calcedon The 3eir of god foure hundretht fyftie, and aucht 3eiris *the* said Annestatius wes nocht emperieur. Bot it appeiris he suld haif Cited. ffelix 30
 the secund, galasius, the first, Annestatius the secund, and Simacus, Celecius the fyftie, twa paip *quhilk* felix 483. began foure hundreth fourescoir and thrie. Lyke as

Simacus endit fywe hundretht and threttene At the 513.
quhilkis tymes Annastatius, wes Emperioure, As the
 computationis of the 3eiris of god, the paipis pontifica- Fol. 6.
 tionis and indictionis, of *emperouris* tymes and
 5 inaugurationis, sett down in *the* end of this buik mair
 planelie recordis, and testifies, at *lentht* : *quhilk* uth-
 wyis will try and comptroill gif any actores, or outhouris
 hes nocht richtlie, daittit ony wreit or evident contra-
 verted, Or sic uthir actionis *quhatsumevir*, as *cummis*
 10 in questioun heireftir, anentis the foirsaidis daittis : To
quhilk effect I have maist exquisitlie, cairfullie and
 diligentlie maid mentioun *thairof* as said is.

15 The preface dedicat To his maiestie
 Officium, Regis, legis, et populi.

Lex animus regni, Rex est lex viva, studetque Legibus,
 ac pater populus, Regit omnia Numen.

[The rolment of the puris complaint pre-
 face or proheme dedicatorie To the richt
 Nobill excellent mychtie and Invincabill
 20 Monarche Charles the first of that name be
 the grace of God King and Monarche of
 greit Brytan, ffrance and Ireland defendare
 of the faith etc. His maiesties humilest
 addicted servitoure and obedient subiect :
 25 A. B. *Edinburgensis* wischeth continuall
 felicitie in this *present* lyfe, and perpetuall
 beatitude in the evirlasting eternall gloir to
 cum : Amen. A. B.

Moist mychtie Monarche, richt pregnant of ingyne,
 30 Beloved of God, and lantrone of this land,
 Ressave this Rolment fra ane leage of thyne :
 and syne the mater 3e sall heir fra hand.

Sen God hes grantted 3our estait to stand,
 and placed 3ow in moist supreme degrie
 Be cairfull than to execute the brand
 aganist transgressouris to his majestie etc.

A. B. 5

Writ heireftir as on *the uthir leif*]¹

[The inscription or tytill of this buik.

This inscriptioun haldin as deleit beand writtin
 in schortare wordis of befor In Initio etc.

The rolment of courtis and forme of deduction of 10
 all procesis in Civile actionis *presentlie* used and ob-
 served befor the lordis of his maiesties counsale and
 session and all utheris judges within the Kingdome of
 Scotland, Togidder with the auld formes of the procesis
 of falsing of domes, The procese of the breve of 15
 perambulation, The procese of the breve of divisioun,
 The procese betuix the lord and the tennent, The
 procese of schauing of halding, and procese of purpres-
 ture. Collected furth of the lawes registeris and actis
 of the realme of Scotland and statutis of the saidis 20
 lordis contened in thair buikis and registeris called the
 sederunt buik's Revised and conformed be *umquhill*
Schir Johne skene of currehill knycht ane of his
 maiesties maist honou^rrabill counsale clerk of his hienes
 registeris and rollis of the said Kingdome of Scotland 25
 for the tyme, as first pairt of the division of this buik
 and wark, Writtin and set furth be me Abacuch bisset
 writtare to his maiesties signet, begun in merch^{ts}. The
 3eir of god ane thowsand sex hundreth and nyne
 3eiris, and thaireftir syched and conferred be him and 30
 me the said writtare In December and Januare ane
 thowsand sex hundreth and twelf 3eiris, as the originall

1609.

¹ For continuation of this dedication, see p. 15 *infra*.

warraund beiris beand notted and corrected be the said
 clerk *registeris* awin hand, writ on the mergin perused
 and conferred togidder be him and me the writtare
 fairsaid Aggreand with the saidis *registeris* *statutis* *actis*
 5 and civile lawes. To the quhilk is added be me the
 said writtaris awin collectioun writtin sensyne Begun in
 Maij anno. 1616. sex hundreth sevintene, auchtene,
 nynetene, twentie, twentie ane, And twentie twa 3eiris
 The secund parte of the division of this buik Anentis
 10 ecclesiasticall *materis* and procesis deducit befor
 Archebischopis, Bischopis, thair officiallis or *commis-*
sariatis, and thair jurisdictionis. With the thrid
 divisioun Concerning the foundataris of Religious places
 within the said Kingdome togidder, with ane chron-
 15 ologie of the Kingis and princes erectaris thair of
 ffourtlie The admirall and sey lawes. ffyftlie Anentis
 the liberties and privilegis of burrowes and confirma-
 tionis Concerning the samin. Item Anentis the chesing
 of Magistrattis and officemen within burrowes Item
 20 anentis the *commoun* guid of burrowes, and this con-
 forme to the actis of parliament and statutis of the
 Kingdome of Scotland. Sextlie Anent the computa-
 tioun of the tymes of all bischopis or paipis of Rome,
 Christiane Emperiouris and scottis kingis in thair
 25 tymes and severall regnnes In quhais tymes ony of
 the fundamentall erectionis of any kirk, kirklandis
 or uther benefices in Scotland war erected and con-
 fermed fra Sanct Petir the blissed apostolis tymes to
 King James the fyft his maiesties darrest gudschir his
 30 tyme, erectioun and confirmatioun of the college of
 justice quhilk was erected ratiffeit be the paip and
 confermed be his hienes and was the last ratificatioun
 geving be ony paip sensyne of any richt or benefice
 quhatsumevir grantted in Scotland be the paipis
 35 authoritie. etc.

Togidder with certane speciall annotationis and
 remembrances directed be me the said writtare as

authoure Anentis the causis of my writting and directing thair of to the godlie and Christiane redares Concerning ilk pairt of the samin dedicate to his maiestie and to his darrest sone the prince, and directed be his maiesties speciall command to be Imprented with 5 his hienes licence beand sene and considdered be sum certane specialiis of his maiesties previe counsall of befor. At Edinburgh]

[1622]

[Writ this as followes befor *the* Rolment 10
dedicatorie abefoir writtin on *the* leif precededand.

Officium Regis, legis, et populi :

Lex animus Regni, Rex est lex viva, studetque legibus
ac pater populus, Regit omnia Numen] 15

Fol. 7.

The rolment of the puires complent, preface,
or proheme dedicatorie ; To the richt Nobill,
excellent, Michtie, and invincabill, Monarche :
Charles the first of that name, be the grace
of God : king of greit Brytan, ffrance, and 20
Ireland, Defendare of the Christiane faith
etc. His moist sacreid Maiesties humilest,
adicted servitoure, and obedient, subiect.
A. B. Edinburgensis wischeth continewall,
felicitie, in this present lyfe, with perpetuall 25
Beatitude, in the evirlesting lyfe [eternalie]
to cum : Amen.

Moist michtie, Monarche, richt pregnant of ingyne.
Beloved of God, and lantrone, of this land ;
Ressave this Rolment, fra ane leage of thyne ; 30
and syne the mater, 3e sall heir fra hand :

Sen God hes grantted, 3oure estait to stand,
and placed 3ou in maist supreme degrie.
Be cairfull than, to execute the brand.
aganist, transgressouris, to his maiestie.

[This befoir
reformed on
the leif
preceding.]

5 I mene sic men, as gevis na compt, nor cuir,
Nethir to God, nor to 3oure royall grace :
grant thame na pardoun, thocht *thai* wald procur :
haif ay remembrance of the puir anis cace,
quha mater hes for to lament allace,
10 of thair greit greiffis, opprest *witht* crueltie.
pansive in mynd at evirie tyme and place.
being distrest with pynching povertie.

Into the law, of Moyses, we may reid,
quhair God pronuces in the scripture plane.
15 he quha committis slauchter or homyceid,
they do deserve, the lyke, for lyke agane,
and he that cuttis, the hand or any vaine,
The leg, the arme, or any uthir jount.
They suld ressave sic punisment and paine.
20 Conforme to auld consuetuid and wount

3oure hienes, actis of parliament provydis,
That mutulatioun, do deserve the deid.
Sic actis as these, maist sleuthfullie, overslydis,
apperandlie, they stand into na steid ;
25 We see thatt saikles bluid, and homyceid.
ar compted for to be ane sobir cryme,
for sic offenderis 3e suld provyde remeid,
and nocht defer thame to ane uthir tyme.

This is the cause, that puir gettis na redres,
30 of crowell tirranttis, that dalie dois persew,
Neglect of justice, quhairof they compt the les,
gif any gettis, the nowmer ar bot few,

and sum be Moyane, unpunist dois eschew;
 quhilk causis thame *the* mair to perseveir,
 into sic crymes and neur for to Rew,
 To lait repentance hes na tyme to forbeir.

The justice cryminall, gettis na thing now ado : 5

oppressioun sua hes gottin the upper hand,
 for crowell crymes, na justice dois luik to,
 Sua wicked men, oppressis the haill land

Fol. 8.

Without remeid; then do they seik ane band,
 Remissioun gettis, thair faultis dois *nocht* repair. 10
 And thus into sic vofull stait, they stand,
 they ar *continewed*, vnto *the* justice air :

Schir I confes, the officemen hes the vyte,
 of all the crymes, that dalie dois incres,
 to thair disprais (I say *nocht* in dispyte) 15
 gif they wald mend, and sua thair faultis redres,
 To punise oppressioun that puir gettis in distres,
 and justice do, to thame war in the wrang,
 thir materis all wald than tak sic succes,
 as crowell oppressouris, wald *nocht the* puir ourgang. 20

Now to the purpose, quhairof I spak befoir,
 I do proceid (this be 3oure hienes leve)
 The Emperioure, Justiniane, he gart *convene* thairfoir,
 his lerned senattis, *Command* to thame did geve.
 the lawes he institute to put the samyn breve 25
 In the twelf tabillis quhilk did *thame* comprehend
 Civill and criminall, *nocht* ane suld *uthir* greve
 They did direct throw his Empyre and send.

[The ten
commandis.
Nota. Titus
 livius 110
 pag. 2. eius-
 dem sayis 12
 tablis and
 that *the*
 decem viri
 eikit and
 added twa
 quhilk maid
 12 tablis bot
 nevir condiscis
 upoun
 the tyme nor
 quhat *the*
 twa war that
 thai eiked.]

That all the kingis, and princes, of the same.
 mycht thair guid subiectis, governe and gyde 30
 be the sayd ¹ lawes, to quhais knowlege thay came.
 and in Christianitie, quha evir did confyde,

¹ "the sayd" underlined and "these" written on margin;
 "these guidlawes" in University Library copy.

aganist infidelis, and turkis, on uthir syde
quhilkis lawes, they did ressave and als allow,
 thairwith to stand, and sua for to abyde,
 As grounded on godis worde, they did awow.

- 5 Thir fourtie tyillis, heir set down in wryte,
 according to these lawes, and statutis all.
quhilk this 3oure clerk, did quott, and als indyte,
 be thir same tabillis, as schortlie now we sall,
 Declair thame heir, in this memoriall.
 10 In first thir lawes, as lawaris dois devyde
 all lawes to be, Civile or criminall,
 prophane, or ecclesiasticall, be judges to decyde.

- 3oure grandfather, of wirthy memorie ;
 Conforme heirto, he did the same allow,
 15 be these guid lawes and his royall decrie.
 he garte the Rasche bus evir keip the kow,
 and proudest, stubbroun tarrantis to him bow
 leif of oppressioun and crowall deidis untrew
 Into this land inressand, that dois now
 20 be extreme bangstaris that dalie dois persew.

- And als erected, to his greit prais for ay. [1532.]
 ane college of justice, thir lawes *quha* did celect.
 he statute actis, na judges suld delay,
 nor in thair office, the tyme for to Neglect
 25 *quhilkis* ordinances, they practised in effect,
 be forme of iustice,¹ into all civile caws,
 and these his senattis, as he did thame direct
 as supreme judges, they have set down as lawis.

- 3oure Nobill father, maist famous of renoune,
 30 *quha* restis with God, for ay with him to ring
 Did gyde his peopill, under his royall croun,
quhais maiestie, wes cairfull in this thing,

¹ "processe" in University Library copy.

Fol. 9.

his loving subiectis be thir lawes he did bring
to his obedience, As loyaltie did crave.
Did thame conferme, as wirthie and conding.
be his greit wisdom he did the sam ressave.

Thairfoir richt excellent, prudent monarche deir. 5
Thir lawis to 3ow, now do I heir propyne,
that in 3oure 3outh, 3e may thame reid and leir.
3oure peopill governe and gyde in the richt lyne,
as God sall grant, be his mercie devyne,
3ow for to flureis, thir godlie lawis imbrace 10
heir to do justice, and als 3oure hart inclyne.
quha God mote prosper, be his moist blissed grace.
Amen A. B.

[Half of folie 9 blank.]

Fol. 10.

To his loving and weilbelovit freindis and brether
of courte. The Lawriat poëtis subsequent. 15
A. B. directis the theame, or subiect, of the
contentis following.

Belovit brether, and onlie sodalis deir
Reject me nocht althought I rin arreir.
Be rymeing rudlie, *quhilk* 3e may repung 20
My pen unpolisched, colocattis nocht cleir,
The theame and subject, that I suld set heir.
Into my vulgare and maternall tung
I pas na limitis thought my lair be 3ung.
This intimatioun than 3e pleis receave 25
Na thing of 3ou, except guid will I crave.

Lang hes my pen hid and obscured bene
 in pretermittin poesie I meane
 quhilk I had wount sumtyme to use befor
 Minerve (me thinkis) *that* poetis suld manteine
 5 and Clio als that constant lady scheine
 3ea all the Nimphes, that dois thair court decoir
 My Musis braith they hinder and they smoir.
 3it o my meattis of curaige constant be
 My Muse, sall use thair service quhill sche die.
 10 A. B.

[*Half of folio 10 blank.*]

Vide folia: 332. 333. 334. infra notanda in lectura Fol. 11. huius libri.

- 15 The theame or subject in commendation and
 prase of the auld actis and ancient Monu-
 mentis of the kingdome of Scotland
 Mentionate in the buik intitulate. The
 Rolment of Courtis Collected writtin & sett
 furth be. A. B. Edinburgensis Off the con-
 tentis following etc.
- 20 1. The deductioun of all civile processis, Conformed
 to the civile law, and according to the statutis
 of the kingdome of Scotland.
- 25 2. The jurisdictioun of all ecclesiasticall judges, and
 proceeding in causis befor thair ordinare,
 according to the Cannonis, and Municipall
 lawis of this Kingdome.

3. The foundatoures of all religious places within
this realme Togidder with the chronologie of
all the scottis kingis and princes erectaris
thairof.
4. The admirall and sea lawis of Scotland, England 5
and ffrance, Thir sex hundreth 3eiris with the
mair bygane, alsweill in peax as weir.
5. The erectionis of all burrowes of this kingdome
Previlegis and confirmationis thairanentis etc.
6. The computatioun of all the tymes, of all bischopis 10
of Rome Christiane Emperiouris, and Scottis,
Kingis in thair tymes and severall regnnes with
daittis of the confirmationis of the erectionis of
sum certane of the kirkis and religious places
of the said kingdome of Scotland for the tyme, 15
and of the prelacies of the samir kingdome
Eftir Sanct Petir in all his maiesties ante-
cessouris tymes etc.

[*Halt of folio 11 blank.*]

Fol. 12.

To there mucche respected and honoured freind,
and brother A. B. Edinburgensis In com- 20
mendatioun of his wark and buik intitulat
The rolment of Courtis etc.

Iff supputatioun of the tymes past.
of bischopis, paipis, of Emperiouris and Kingis,
Off Regall burrowis, and of Neptun vast,

his various lawes, and of religious thingis,
With Chronologie, of princes in the stait,
and thair erectionis, be *this* quair delait.

Iff Civile lawis, with the Municipall

5 Conferd, Conformed, and [in] dew methoid maid,

If of the powaris, ecclesiasticall :

qu~~h~~ilkis realmes, and iudges, in regaird have haid.

and of thair pe~~n~~men, hes sa heichlie thocht,

To suich perfectioun, that thair kingdomes brocht.

10 And if no Eagill evir soreth hyer :

nor forthir luikt, in limit~~s~~ of our lawis :

none in oure tyme, heth bene moir perfyte tryer :

quhat lenth, breadth, hecht nor deip, *thair* poware
drawes :

15 Then Abacuch suld he nocht than be praisd,

and with the pen, his panes extold and raisd.

Quod M. Wil. barclay

[*Half of folio 12 blank.*]

Height the attempt, and *the* performance rair,

Fol. 13.

To Martiall, Monarches, in thair tymes a right :

20 Within this realme, since Rome, first saw the light :

The dowlfull douttis, of disputis to declair.

and shew the pious, and *the* powerfull pairtis,

quhill darknes rang, in prince and peoples hartis.

In riche erecting, of religious places.

25 And to *our* burrowes, Royalties extent.

Evin in this act, thow rearest, a Monument :
 That all the spyte, of wraikfull tyme out faces.
 ffor quhill vaine tyme, sinkis in eternitie.
 Thy wark shall plead, for prayse as dew to the.

quod Jo. WRREY. 5

How sone the subiect of thy booke is sene,
 and purpose of thy penne, and panis ar spyid :
 The store, and threasure, that it dois contene,
 Will make thy virtues worthely envyid :
 3ea woundred at, for the unexpected worthe, 10
 of suche a worke so in thyn aige set foorthe :

Thy computationis, kyth and do declare,
 To manifest our Monument's thy Mynde,
 And as thow Aymes thow prooves, into them thair,
 how many Kingis (for to decoir Inclynde : 15
 Religione, in this land) of old erected
 great Monument's undone, nou, and dejected.

Thy travel's taine and labor's on our lawes,
 The Civill, Sea lawis, and Churchē statut's too :
 This thy Sedulitie, and Searching Shawes, 20
 And what great Good, and what great glorie thow :
 Thereby : and this, thy cuntrie both shall gain,
 By this thy profit full expensive pain.¹

AL. GARDEN.

[*Half of folio 14 blank.*]

¹ Another copy of this poem, with slight verbal alterations, is engrossed on the next folio (14) of the MS. and deleted.

Those lawes lay deid, into Oblivione nyght : Fol. 15.

as doo ther authors, in ther tombes remaine,
thow bringes to lyfe, and makes [them] speik againe :

By geving them, thair fame, to those ther lyght.

5 and both of them, and ws so well deservis,
that both thow them, and them, to ws preservis.

Thus with ther worth, thy iudgment should be praisd.

those scattered parcells, *quhilk* disordred war.

by the digested, and apointed ar.

10 And by thy paines, enriched, and incresd.

That in one volume, be thy wittis we know :

Quhat many bookis, and bibilliothekis doth show.

JA. C.

[Cromlix Knycht]

[Half of folio 15 blank.]

15 Tuixt wes, and is, how varius ar the ods : Fol. 16.

Quhat one man doeth, ane uther doeth ondou :

one consecrat^{is}, religius workis, to Gods :

ane Other leavs, sad wrak^{is}, and Ruynis now.

Thy book doeth show, that suich, and suich thing^{is},

20 war,

But wald to god, that it culd say, they ar.

Quhen I pereir, the south, north, east and wast,

and mark (alas) each Monument amis :

Then I confer, tims present, with the past.

25 and reid what wes, bot can nocht see what is :

I praise thy book, with woonder, but am sorie.

To reid old Ruynis, in a recent storie.

M. ALEX. CRAIG.

[Half of folio 16 blank.]

- Fol. 17. Dianais tempill, and rair Mauseols tombe.
 The ferce Achilles wrne, unto oure ears ar come.
 The piramid^{is}, quhiche to the hevins, did bend,
 Invyous tyme, hes brought tham all to end.
 3it in tyms spyt, they live in glorious famis.¹ 5
 Brave Annell^{is} still, perpetuat^{is}, thair names.
 Oure Monumentis, quhich Dane, and roman furie,
 With tyme in dark, oblivione, did burie.
 Thy rolmentis dois redjntigrat agane,
 by ane Incessant, labarinthian, pane. 10
 Thy wit, nocht art, In methode to ws shawes,
 the rude, confused, Chaos of oure lawes,
 thow hes exped (I speik this to thy gloir)
 Ane theame, quhich no man, evir did befoir.
 And gif admiring, war for to commend, 15
 My pen, suld mak, thy painfull labour^{is} kend.

PA. MACKENZE.

[Folio 18 and half of folios 17 and 19 blank.]

Respublica Nomen Universa, Civitas est, pro qua
 mori, Et cui nos totos dare et in qua omnia nostra 20
 ponere, et quasi consecrare debemus.

Cice. ii de legibus. etc.

¹ "fanis" in University Library copy.

'The preface or prolog To the godlie and Chris- Fol. 20.
tiane Redare derect be *the* authour.

The Nobill, famous, renowmed Christian, Roman,
Emperiour, Justiniane: eftir greit experience, and
5 many difficulties, haifand attenit to his Impyre,
Caused convene, his vysest senatouris, and best lerned,
counsallouris, at quhome he demanded (as maist skiled)
quhat wes the cheifest causis, of the decay, and rewyne
of all *commoun* welthis: These senatis and consules
10 advysedlie ansuered; That 3ounge counsall, hid Invy,
and particular proffet, wes the thrie greittest causis,
they fand of the decay, and uttir distructioun, of the
commoun wealth: And as this wirthie emperiour, wes
desyrous, to know the causis of the decay, and wraik,
15 sua wes he maist exquised to understand, the remedies,
and furtherances, to the standing and continewance,
of his *commoun* wealth: richt earnestlie, desyred, his
senate, and counsallouris to resolve him *thair*of, to
quhome, he faithfullie promesed (in the worde of a
20 prince) to follow thair resolutioun, quhilk steirit up &
moved thame, to be the mair diligent to deliberate,
thair knowlege, and instructioun to sa ressonabill
proposition, of thair sa wirthie and Clement a
Emperioure: They fand and declaired, Concerning
25 the first, cause, of 3ounge counsall, that the saiftie,
of the peopill be the executioun of the supreme lawes,
wes the onlie remedie: for sayd, the senate and
consules: God eternale gaif his lawe, and *commandi*-
ment to moyses, eftir the saiftie, and that he had,
30 [maist] miraculously preserved, and delyvered his
peopill: Lyke as moyses thaireftir, ascended no moir,
to *the* montan of Synay, bot entered into the tabernacle,
quhar he askit counsale at god, and quhare god

[As Josephus
flavius]
Eusebius
and pol.
[virg.] lib. 2.
c. 1. declairis
[God] wes
the first trew
author of
lawes.

assisted & instructed him, of that *quhilk* he had to do ;
and quhat lawes, he suld mak, alsweill in peax as in
weir, Sua that the saiftie of the peopill, be the counsall
of god, wes *the* making and executioun of the supreme
law :

5

And as to *the* secund, anent hid Invy and malice :
They fand the remedie, of everie weill governed com-
moun wealth : The rewaird provyded and gevin, to the
guid, and vertuous, and the punischement threatned,
and done to the vicked, and evill offendouris, *quhilk* 10
is the mantenance of vertu, and distroying of vyce,
in execution of the law be iustice : and as Invy, is
evir hid and previe, sua the remedie, is ay oppin and
publict ; for guid iustice, makis emperiouris, kingis,
and princes, greit, welthie, and riche : seing for the 15
maist pairt, they suld leif on the Iniquities of the peopill,
be *the* executioun of guid lawes and sworde of iustice :
ffor sayd the vyse senate, and consules, Godis guid
iustice, levis na thing unpunished ; and bettir it war,
that lawes war nocht maid, nor quhen they ar maid, 20
to ressave na executioun be iustice ; and iustice gif it
be subpressit : procuris alteratioun of unrichtious iudges,
and godis punisment ; for the office of ane iudge, is,
to iudge richtiouslie, without respect of persones,
lucre, or dignitie, and suld prefer iustice, befor all 25
uther thingis, for goddis poware is justice, and these
quha wraistis the samin, suppones god to be waikare,
and they to be starkar ; and quhair iustice is neglected,
God moves, Kingis, princes and uthir men, to helpe
for remedie, and quhair iustice, is circumspectlie 30
respected, These, alwayis luifis the trewth, and evir
Indevoiris, to confuit, and hait, *the* learis, and dis-
saitfull persones ; They luif the omnipotent god, and
nixt under god, thair Kingis princes and law makaris ;
And thairfoir, the executioun of law, and iustice, *quhilk* 35
suld be publict, is [direct] contrarie to hid Invy, and
malice, quhilk is prevate, ffor *the* prydefull Innimie of

man, puft up with hid Invy, and malice, maid ws all
this ado, that causit the *command* and law of god to
be brekin, 3it lawlie humilitie, in the awin appoynted Fol. 21.
tyme, overcome and overthrew, be patient suffering,
5 crowall Invy, and dissaitfull pryde, and vynquised for
ws, all his subteill and craftie powaris. And as to the
thrid, and last cause destructive, of all *commoun*
wealthis, Particular proffett, and insaciabill desyre, and
covattusnes of land, gold, money, riches, and honouris
10 (*quhilk* Sanct paule callis *the* ruit of all evillis, as it
is in deid, and may be sa weill called). The vys senate,
and consules, Concluded and resolved *the* emperieur:
That the *summe*, of the haill law, is to attrIBUTE and
gif to everie ane, that is dew, thair awin richt, for
15 that wes direct contrare to particulare proffett, and
gane of the covettous, and dissaitfull persones, as oure
maister and salvieur, concluded, to gif to god that
wes goddis, and to Cæsare, that wes Cæsaris, and sua
to evire ane, that wes dew thair awin, *Quhilk the* wicked,
20 and wreched dissauaris, be 3oung counsale, hyd Invy,
and thair awin particuler proffett, and gane, evir
preferis to the *commoun* wealth: And this wes the
conclusioun, and resolutioun, of the vysest senattis &
consules, Sua that godlie emperieur, eftir he had richt
25 graciouslie, and lovinglie, thanked thair wisdomes,
of thair trew and faythfull counsall, and resolutioun, he
according to his promes Inspyred frome above, be *the*
devyne wisdomes and counsall of god: nevir ceissed,
the space of ellevin 3eiris, quhill his said vyse senate
30 and lerned consules, be his directioun, and institutionis,
had causit mak collection, of the haill course and
volumes, of the lawes, callit the civile lawes, be the
help of Tribunianus: Lyke as the Cod of the civile law,
wes perfytted, and causit to be publisched, be Justiniane
35 emperieur *the* twentie nynt day of December The 3eir 29 Decem-
bris 535.
of god fyve hundreth, threttie and fyve 3eiris; And the
rest of the haill course thairof, *quhilk* wes sett furth in

537. wreit, At *Constantinopill*, The 3eir of god fyve hundreth,
threttie sevin 3eir^{is}, and the ellevint 3eir of his impyre;
the said nobill emperieure, beand Inaugurate, in the
528. ffyve hundreth twentie and aucht 3eir of god, and
38. regnned, threttie aucht 3eir^{is}, as ane of *the* maist 5
famous emperio^{ur}*is*, and lawmakeris, that regnned,
[annotacio virgilius 60 quhilk richt diligentlie, during his tyme, he causit put
martir. 60 paip for *the* tyme sone to in executioun, to *the* glorie of god, and increse of his
John the consul weill governed commoun wealth; according to his lawes,
began anno 537. paip 18 and preferred the executioun thereof, to his awin estait, 10
3eir 6 mon- eties 28. dais. and standing.
maid paip for his father^{is} rewaird as appeir^{is}. In felix. 3. tyme
55 paip began 526 4 3eir^{is} paip.]

And as the Kingdome of Scotland, hes bene ane frie
realme be the space of Thre hundreth, threttie and foure,¹
3eir^{is}, or thairby befor the incarnatioun & cuming, of
Jesus Christ oure blissed salvioure: Sua caused the 15
kingis thereof, mak godlie lawes, and war guid justiciari^s, be putting of the samin, to dew executioun: ffor
foritharis *the* secund, king of Scottis, quha regnned,
befor the cuming of Jesus christ thrie hundreth and
fyve 3eir^{is} wes ane guid Justiciare in his tyme; thair 20
wes ane law maid that gif the sones of the king depairtit,
war sa 3oung, that *thai* could nocht governe nor reule:
that in that case, the narrest in bluid sould regnne,
beand in aige sufficient for governament, and than eftir
his deceis, the King^{is} childrene suld succeid; quhilk 25
law continewed unto Kenneth the thrid his dayis, all
maist ane thowsand thrie hundreth twentie and fyve
3eir^{is}. H.B. lib. 2. c. primus: Lyke as Dorvidilla,
quha wes the fourte King of Scottis befor the cuming
off Christ, Twa hundreth thriescoir and twa 3eir^{is}, [This 30
land beand full of grene growand tries of woddis forrestis
and wylderines, quhairby the wyld beistis, sik as hart,
hynd dois, Rais, hairis, wolf^{is}, toddis, foxis, beiris, bairis,
Sangleiris, wyld swyne with uthir savaige and distroying
bestiall Incressed and multiplied] maid the first lawes 35
Concerning huntting [for distroying thairof].

¹ "fyve" in University Library copy.

In the first he ordanit, Thatt Ilk nobill suld caus
 Nurische twa reches, and ane hund to his hunting, and
 quhen these hundis war hurte be adventoure of chaise,
 to be sustenit *thaire*fir: He ordaned the slayare of ane
 5 wolff, to have ane ox to his rewairde, seing the wolffis
 destroyed uther bestiall / Item it wes commanded,
 quhais dog first bait the deir, sould have the hyde
 thairof, quhais dog bait nixt, sould have *the* heid, and
 the hornis, the bodie cured to be at the plesoure, of *the*
 10 maister of the hunttis, the residue for *the* houndis:
 Item gif ony contentioun, rais amangis the hunttaris,
 ane iudge to be chosin with all thair consentis, at *the*
 nixt kirk to aggrie thame: etc. H.B. lib. 2. cap. 4.

King Reutha the sevynt King of Scottis befor
 15 Christ Twa hundreth and threttene, This Rewtha wes 213.
the first king that caused mak riche sepulturis, for his
 nobillis and valient men, he brocht *the* first craftsmen
 within this realme, with fies, and dewities, for *thair* Fol. 22.
 wayges, for *the* tyme: seing thair wes than na inter-
 20 change of money, bot nifferring, of guidis, geir, and
 cornis, Thairefir he statute, and ordaned, under the
 pane of death: That nane exerciced, the airt of
 medicene, without *thay* war tryed, and fund richt expert,
 with Lang experience thairof: afoir that tyme sic as war
 25 trubled, with infirmities, war brocht to the *merkett*, or
 publict places, That *the* peopill, gif thair opinioun, and
 counsall, to use sik remedies, as they used to convaless,
 thair meladies: and to visie, the seik, and diseased,
 with confortabill counsolatioun etc. H.B. lib. 2. cap.
 30 10. Siclyke Josina, the nynt, king of scottis, ane
 hundreth, thriescoir ane 3eir befor Christ: he wes ane 161.
 gud Mediciner and herbistare: As in lykemaner king
 ffynnane, the Tent scottis king, Ane hundreth and 137.
 threttie sevin 3eiris befor Christ, he wes ane guid and
 35 godlie king, according to *the* religioun for the tyme, he
 wes ane vyse and guid Justiciare, luifare of his commoun
 wealth: He gaif his hail attendance, to wyn the hartis

of his peopill, and Ministrate justice, be advise of his nobillis: He eikit *the* nowmer of his counsall, with *utheris* ma *senatouris*, nor wes of befoir, and maid thame the moir renowmed: This nobill, vyse, king ffynnane, maid ane law, That *the* Kingis, his succes- 5 souris, suld do na thing, *concerning* the publict governament, and administration of his realme, without *the* advise, and counsall, of his nobillis: etc. He maid als, ane uthir law, that he, nor his successouris kingis of Scotland, suld nother denunce weir, nor treat peax, but 10 advise, and consent, of his principall nobillis, and estaittis: He wes *the* first, king of Scottis that institute prelattis, and clerkis, to be in *this* realme, and to remane togidder, he gaif thame the Ile of man: Lyand, betuix Ireland, and Brytan foiranentis, Brigance als 15 called galloway, *quhair* thair principall seat, wes ordaned to be: And *thair* instructed *the* sones of the nobillis, and gaif thair counsall, in all thair affairis, and speciallie anent *thair* religioun and *commoun* wealth, etc.

Be *thir*, and siclyke uthir, constitutionis, be his guid 20 governament, kyng ffynnane *conquesed* greit favour, and benevolence, bayth of god, and man, and sua he inressit in greit aboundance of riches: H.B. lib. 2. cap. 13. [Siclyk Corbredus the first and nynetene Scottis king quha regnned eftir Christ the fyftie and fyve 3eir 25 was ane vyse king and ane guid justicare.] Eftir *the* depyryng, of King Coranus the twentie foure scottis king, for his vicius, ungodlie, leving, and evill governament, quha began to regnne, The 3eir of Christ ane hundreth fourtie nyne 3eir^{is}. Argadus, beand 30 chosin and admittit, *governour*, be the nobillis of this realme In his *begynning*, he governed viselie, and weill, to the manteinance of the *commoun* wealth: bot thair-
149. eftir he forzet him self, and declynit, fra his first guid governament, 3it beand reprehended, be the nobill 35 princes, of this Kingdome, This Argadus, beand *rycht* penitent, of his formare Misdoingis, he become, as it

war ane new man, in amending of his formare faultis,
and did na thing, in tyme thaireftir, Concerning publict
materis, in governing this realme, in guid iustice,
without *the* speciall advise and consultatioun of the
5 nobillis of this realme, the thrie estaittis: And because,
divers townis, and cieties, of the *samin*, had our large
previlegis, in administratioun of iustice, he deminisched,
mony of thair prerogatives, and commanded thame, to
punishe nane, bot small crymes, all hie, and capitall
10 offences, to be remittit, and repeldigit, to the greit
iustice: he maid extreme diligence, to serche thevis,
revaris, and oppressouris, speciallie thame, that maid
herschipis, war execute without *mercie*: Item he *com-*
manded, all *persones*, that had ony office, or auctoritie,
15 off justice, To abstene fra drunkynnes, to hinder thame
of wisdom, abone the *commonis*: Item he *commanded*,
all vyle, and Idill, drunkaris, in ailhoussis, and tavrins,
and peopill desyrous moir for lust, nor ony necessar
sustentatioun, to be exylit within certane space; the
20 tyme beand run thair gudis to be confiscatt, *quhair*evir
they mycht be apprehended. etc. HB. li. 5. c. 7. Siclyke
Donald *the* first, and twentie sext scottis king, *quha*
rang the 3eir of god ane hundreth fourescoir and nyne- 199.
tene 3eir: wes ane guid justiciare, for quhen he had
25 pacyfeit his realme, of all debaittis, he began to visie,
all boundis *thairof*: makand resydenche oftymes, in his
honourabill castellis, *witht* his nobillis, and doing
iustice, to his subiectis but ony respect of the *partie*,
and punished all crymes effeirand to the offens: Throw
30 *quhilk* the peopill that war vyle and undantted abefoir,
be negligens of evill princes, war *than* reformed: H.B.
li. 5. c. 13.

And in lykemaner, eftir the said Donald, King, Fol. 23.
Ethadius the secund, and twentie aucht scottis king,
35 beand weill instructed, and brocht up in *letteres*, and
lerning, 3it unvys and bas mynded, mair Inclyned to
avaracie, and to gadder riches, nor to governe this

realme : his nobillis, and estaittis sa rewled *the* samin
be *thair* guid, and prudent *constitutionis*, That thay
punished all malefactouris according to the lawes :
It wes defended be *the* samin to speik for ony cryminall
persone, in judgement, and quha spak for *thaim*, war 5
repute, as participant of the cryme etc. lib. 5. c. 16.

277. In the 3eir of Christ twa hundreth, thrie scoir, and
sevintene Crathitlint, the threttie foure, scottis king
ane valient and a godlie king, Chesed vyse and prudent
men to do iustice, throu all the boundis of this realme ; 10
and thaireftir he purged the land, frome the Idolatrous
superstitioun, of the Druedes & plantted, the synceir,
Christiane religioun in this realm : lib. 6. c. 6. Lyke
322. as, in the 3eir of god thrie hundreth, xxij 3eiris : ffyn-
cormak the threttie fyve scottis king, ane godlie and 15
valient prince : he wes ane wirthie promovare, of the
Kingdome of Christ in Scotland, The first bischope
that wes in the Ile of man wes ane Brytone named
Amphibolus, quha preichit, the evangell throw all *the*
boundis of Scotland : And in the 3eir of god, ffywe 20
501. hundreth and ane 3eiris : Conranus, or Coranus, wes
maid the fourtie fyve scottis king ane guid, and ane
vyse prince : Eftir his coronatioun, that na trubill, suld
ryse amangis his liegis, for over lang peace, went throw
all the boundis of his realme, for executioun of justice, 25
and punished, mony criminabill persones according to
thair demereittis : And quhen he wes passand throw the
cuntrie in this wyse he wes advertesit, that sindrie of
his commounis war sa oprest, be the tyrrannie of his
nobillis ; that they durst nother *complane* nor 3it follow 30
thair actionis afor his justice And thairfoir, this nobill
prince to punische sic extorsionis, done to his peopill :
Commanded certane exploratouris to pas throw all the
boundis of his realme, and to serche *quhair* sic sus-
pected persones war, That bayt~~ht~~ thair names, and there 35
crymes, be writtin in the king his rollis ; and gif ony
of thir persones war fundin culpabill, eftir quhen they

war accused, be the king his advocatt, They war punisched to the death: Thus war the *commonis* mony 3eiris eftir, delyvered of all sic oppressioun, of the nobillis and greit men etc. It is sayd, That *this* King Conrannus, used
5 quhen his *counsall* satt in ony pairt of his realme, outhir to be *present* him selff, or ellis neir hand by, his chancellare beand *convenit* with his nobillis, and estaittis, at counsall to gif his officeris the moir autoritie and poware. etc. lib. 9. cap. pri. etc.

10 Item in King Conrannus foirsaid tyme, It is writtin, That the realme of Scotland wes governed, in greit felicitie, and justice: Quhill at last be *dammaige* of his guid aige, *sindrie* displesuris followed in this realme: ffor thair wes ane man, of pur lynnaige, Named Tonset,
15 quha ves maid Chancellare be King Conrannus, bot he wes mair sett for the kingis proffett, than ony iustice; gevand his mynd, and haill industrie, to punische *persones* be extreme rigoure, to conqueis money to the king: The king as *the* ingyne of *sindrie* men ar, hes
20 thame in maist favoure, and reverence, thatt can maist craftalie, escheit the guidis of the peopill to his proffett: This tonsett, eftir *sindrie*, wrangis and oppressionis, done be him, in the Kingis name and *authoritie*, Called befor him, certane *merchandis* of fforrest, a brugh in
25 Murray land in scotland, and for small, and vane caussis, pat thame all to *death*, as misdoaris, syne confiscatt all *thair* guidis, and geir to the kingis behuif: The nobillis of *the* cuntrie of Murray commoved, for thir oppressionis, done to thair freindis, the *merchandis*
30 foirsaid, past haistalie to armes, and slew this Tonsett publictlie, in oppin judgment, quhair he wes doand, mair wrang and Iniurie, than justice to the peopill: Throw *quhilk* occasioun, thir Lymmeris, that slew Tonsett, and thair assistaris, maist tressonable &
35 schamefullie, muredrest that nobill and guid king, in his awin chalmer, At Innerloch *quhair* he maid resy-dence for the tyme: the threttie ffyve 3eir of his regne:

553. And 3eir of god ffywe hundreth threttie ffywe 3eiris :
lib. 9. cap. 10.

Fol. 24. In the foirsaid, ffywe hundreth threttie and fywe 3eir
[535.] of god [in the said Justinian his awin tyme] King :
Ewgenius the thrid, king Congallus sone wes crowned, 5
the fourtie sext scottis king, ane vys king, and a guid
iusticiare in the begynning of his regnne ; To cause him
appeir bening to the peopill, he satt oftymes in juge-
ment, And quhair ony persones, war adjudged wranguslie,
he gaif thame licence, to appeill to uthir judges : He 10
supported the indigent peopill, with the commoun guid,
and quhen they had na gudis, to follow thair actioun
be the law : He commanded that na man sould call
ane pupill in judgement, afoir his lauchfull aige : And
na wedow to be drawin, ane myle fra hir duelling place ; 15
He maid als greit punetioun on ressettaris of thevis, as
the thevis thame selfis : and keiped guid ordoure, and
peax, in this realme during his tyme : etc. lib. 9.
cap. 11.

605. Siclyke in the 3eir of god, sex hundreth, and fywe 20
3eiris, King Kenneth Keir wes crowned, The fyftie scottis
king, ane peciabil, and a guid king, werray loving, to
his trew subiectis, and richt displesand to misdoaris,
and offenderis : He commanded all Idill peopill, as
juglaris, menstrallis, bairdis, and skaffaris, outhir to pas 25
out of the realme, Or ellis to find sum craft to wyn
thair leving : He punished thift, with na les seveir
justice, than reif or slauchter : He maid Rigorous
punishment, on his nobillis, and barronis, quhen he
fand thame, oppressouris of his puir subiectis, Be con- 30
trare, he loved, and treitted thame, with greit reverence,
and honouris, quhen he fand thame virtuous : etc. lib. 9.
cap. 18.

787. Achaius, The thriescoir and fywe king of Scottis Began
to Ring In the 3eir of god Sevin hundreth, foure scoir, 35
and sevin 3eiris Ane richt peciabil and maist godlie king,
he regnened threttie and twa 3eiris, as ane civill and politict

justiciare: He maid ane league with Charles'mane
quhais dochter *he* maryed, beand than king of ffrance,
and thaireftir Emperiour, as *confederat witht* Achaius,
the twentie twa 3eir of his regnne: The 3eir of god aucht 809.
5 hundreth, and nyne 3eiris; Leo the thrid, beand the
foure scoir and aughtent paip, or bischope of rome for
the tyme, *Quhilk* league ramanes 3it Inviolablie keiped:
And because the samyn is nocht extant, in ony publict
or patent registre within this realme, beand destroyed
10 be *the* civile weiris, for *the* tyme: Albeit the franche
annales and romane registeris recordis the samyn au-
thenctlie, 3it the samyn nocht beand patent, and devul-
gatt to the liegis, of baith the realmes, and to be knawin
to all utheris, I have recapitulate the heidis and articlis
15 thairof (that the samyn pas nocht out of memorie) As
followes. 1 The amitie and consideratioun of scottis
and frenchemen, wes maid for evir, baith for the peopill
present, and to cum. 2 The Iniurie of Inglismen, done
to any of thir peopill, salbe haldin as *commoun* to thame
20 baith. 3. Quhen franschemen, ar Invaded, be Inglis-
men, The scottis sall send thair armie in defence of
ffrance, sa that they be supported, with money, and
victuallis of ffrance. 4. Quhen scottis ar Invaded, be
Inglismen, the franchmen, sall cum upoun thair awin
25 expenssis to thair support. 5 Gif ony prevate, or publict
persone, of thir confederate peopill, supportis Inglismen,
aganis any ane of *thaim*, with counsall, money or vic-
tuallis, or remane amangis thame, during the tyme of
battell, the doaris thairof salbe haldin tratoure, and
30 Inimie to thame baith. 6. Nane of thir twa peopill, sall
tak peace trewis or aggreance, with inglismen, but, or
without advise, and consultioun of utheris. Thir con-
ditionis of peax, corroborate in maner foirsaid, war
writin or (*sic*) parchement, with interchanged seillis, of
35 king and king, or baith the kingis, to remain in Scotland,

Line 2, "quhais . . . beand," written on right-hand margin of
leaf, a portion of which has been cut away in binding the MS.

Fol. 25. and ffrance, in perpetuall memorie, of *this* league to
 thame, and thair posteritie, for evir. And *that* the nobillis
 of Scotland, suld be the mair myndfull of *the* foirsaid
 league, To the king of Scottis armes (*quhilkis* wes that
 tyme, ane reid Lyoun rampand in ane feild, of gold) wes 5
 eiked ane dowbill tressoure, with contrare lyllies, in-
 cluding about the lyoun, in all pairt's: to signifie, that
 the said Lyoun wes than armed, keipit, and defended,
 with the lyllies, riches, and freindschip, of that nobill,
 and maist pussand, kingdome of ffrance be the foirsaid 10
 league, and confederate with *the* samyn perpetuallie:
 And als to signifie that all the kingis of scottis, sall
 fecht valientlie, for thair realme, and libertie fredome, of
 religioun, and Innocence perpetuallie, and supporte.
 frenschemen, for evir aganis all thair Inimies: lib. 15
 10. cap. 3.

And King Alexander 2. *quha* regnned Anno Domini
 12— he past to ffrance and renewit the foirsaid ancient
 band in all poyntis. Lykeas In the 3eir of god 1323
 3eir's or *thairby* king robert bruce *the* maist valient 20
 king of scottis renewit and eiked to *thir* heidis and
conditionis abone writtin gif succession failzeit, to ony
 of these, twa kingdomes uncertane *quha* suld be air. *The*
 clame and rycht of *the* croun To be decyded be *the*
 nobillis of baytht *the* realmes. And *thai* sall nocht onlie 25
 exclud tirrantis gif ony wald usurpe *the* croun bot de-
 fend *the* iust heretour *thairof*. This last band wes ratif-
 fied be *commonioun* of *the* sacrament and authorisit be
 Benedict .7. *the* 148 paip *for* *the* tyme. lib. 14. c. 15. vid.
 fol. 249 et fol. 389. Quhat sall I say, or writ, Anentis the 30
 favoure and allyances betuix these twa maist famous and
 ancient kingdomes: Thair hes sa mony autentik and
 renowned, lerned writtaris set furth and declaired the
 samin That *the* wit of man hes sa enlarged these ac-
 cording to the veritie, and treuth of, fidelitie, that they 35

Lines 17 to 30, "And . . . 389," written on the margin of the folio, part of which has been cut off in binding the MS.

naif left, na rowme, nor place to any utheris, to writ or
reherse, thair maist loving kyndnes, and allyances, unles
it war, to repeat that, *quhilk* hes bene sa amplie writtin,
and testifed of befoir. As be sindrie actis of *our* scottis
5 parliamentis, may be *considerit* and *speciallie*. Jac. 4.
parl. 3. act. 23. 18 Maij Anno. 1491.

Lyke as the lettir of Naturalizeatioun Insert in french
in the saidis actis Mar. Reg. parl. 8 act. 65 et 66. 30
Novembris Anno Domini 1558 extending as ane mutuall 1558.
10 law to *the* inhabitantis of *baylit* the kingdomes as *the*
actis thairanent at mair lenth proportis intitulat The
privilegis and liberties of frenchmen within Scotland
Begynnand Item, be *the* maist Christiane [King] of
ffrance hes *grantit* ane lettir of *naturalitie* for him
15 and his *successouris* to all and sindrie scottis men being
in the realm of france, or salhappin to *be* in the samin
in ony tymes to cum; Makand thame abill to bruk
landis heretages offices dignities and benefices, and to
dispose *thairupoun*, and thair *airis* to succeid to *thair*
20 landis and heretages: Lyke as *the* said letter of
naturalitie, Registrat in *the* parliament of pareis in greit
counsall and in *the* chalmer of comptis in *the* self at
mair lenth proportis. Thairfoir *the* quenis grace
dowriare, and regent of this realme, and thrie estaitis of
25 *the* samin thinkis it guid and aggreabill, that *the* lyke
letteres of naturalitie be gevin and grantted to *the* king
and quene of Scotland, Daulphin and Daulphines of
Viennoys, to all and sindrie the said maist Christiane
king of frances subiectis being or salhappin to be in
30 *the* realme of Scotland in ony tymes to cum with siclyke
privileges and faculties as is gevin be *the* said maist
Christian king of ffance to *the* subiectis of *this* realme
And *the* said *lettere* of naturalitie to be registrat in *the*
bukis of parliament bukis of counsall and sessioun and
35 in *the* chekker rollis. *Quhilkis* *letteres* of naturalitie
grantted be *the* said maist Christiane King is brocht
hame and registrate in the buik of parliament To be

deliverit to *quhatsumeir that requyris the samyn.*
Quhilk lettir is translated out of french into scottis of
 the *quhilk* the tennour followes, That *the* vulgare scottis
 peopill may understand the samyn. Henrie be the
 grace of god king of ffrance: To all *present* and to 5
 cum. Greting: ffor samekill, as eftir the *mariaige* con-
 tracted of befor, betuix oure maist deir and weil belovit
 sone, the king dolphin, and oure darrest and weilbelovit
 dochter, *the* quene of Scottis Dolphines his spous being
 now perfytted, concluded, and ended, the deputies 10
 commissioneris of the estaittis, of oure kingdome, hes in
 name of the said estaittis, maid to *our* said sone *the* aith
 of fidelitie, and allegiance, as to thair trew and native
 lord, *quhilk* he is, be the meanis quhair of, the subiectis
 of the twa kingdomes (*quha* to this *present* and lang 15
 sence hes continewed togidder, ordinarlie, levand in
 mutuall freindschip, and intelligence, favoured and
 helped the ane the utheris) beand united togidder be
 meanis of alyances of houssis, of france and of Scotland,
 Sua that we esteme thame baith as ane: And desyring 20
 for this cause, and for the bettir establisching, inter-
 tenying, and fortifeing, this freindschip betuix *our* saidis
 subiectis, and these of the said kingdome of scotland,
 and to gif the inhabitantis of the realme of Scotland,
 bettir moyane, to visied thair said king, and quene, 25
quhen they salbe in thir pairtis, to remane neir thame,
 to follow and serve thame, as it becummis guid and
 faythfull subiectis: to gratifie and favoure thame with
 graces and *privileges*, quhilkis oure propir subiectis
 Inioyes. We lat to understand: that thir thingis beand 30
 considderred, and for mony utheris guid, and ressonabill
 causis, heirto moving ws, haif permitted aggreed and
 grantted, and be *thir presentis*, permittis aggreis and
 grantis, to all Inhabitantis of the said realme of Scotland,
 and subiectis to oure said sone, the king dolphene, & to 35

From "intitulat," line 11, page 37, to "samin," line 1, *supra*,
 also written on the margin of the folio.

oure said dochter his spous, that *thai* may, and *that* it
 salbe lauchfull, to thame, quhensaeuir it sall pleis thame,
 to duell, to cum abyde and remane *withtin* this oure
 Kingdome, and in the *samin* to accept hald and possese
 5 all and everie benefices, dignities, and offices ecclesiastik,
 to the *quhilkis* *thai* may iustlie and canoniclie, be
 provyded be guid tytill nocht dirogatting to halie
 decreis, aggrementis, privilegis, franchises, and liberties
 of *the* kirk gallican, to tak and apprehend of thame
 10 possessioun, and Injoyance, and to ressave and gadder Fol. 26.
 in, the fruitis proffettis and rentis to quhatsumeuir
 sowmes, they may cum to or be of, and forther to
 conquais within this oure realme, places, landis, and
 senzeories under oure obedyence, all and quhatsumeuir
 15 guidis, alsueill movabill, as unmovable, *quhilkis* they sall
 think guid, to hald and posses thame togidder, these
 that may befall, and belang to thame, quhidder be
 successioun, gift or utherwyis, and to ordane, and
 dispone, be testament, ordinances, of lattir will, gift
 20 maid amangis these that war on lyfe, and in quhat-
 sumeuir sorte, and maner, and that thair airis, or utheris
 to quhome they have disposed may succeid to thame,
 tak, and ressave, possessioun, and joising of the saidis
 gudis, evin as they wald or mycht do, gif they war be
 25 race bred and borne within this *our* realme and cuntrie :
 And that oure advocat or procuratour generall, and
 utheris oure officeris, may nor sall *nocht* heirefter pretend
 these saidis guidis to be conquaist to appertene be richt
 of escheit, be ressone of nocht naturalising, and that *the*
 30 saidis subiectis of the said realme of Scotland sall nocht
 be trublit ony maner of way in the joysing of these
 gudis, And by and all that is foirsaid We haif fred and
 dispensed, and be thir *presentis*, freithis and dispensis,
 with thame, quhidder they duell in oure said realme,
 35 cuntrie, landis, and Senzeories, under oure obediens, or
withtin the realm, of Scotland, That they sall nocht
 be haldin be ressone thairof, to pay to ws or to oure

successouris, any fynance, or Indempnitie, for the samin,
 to quhatsumeuir sowmes valoure, or estimatioun, it may
 cum to, *quhilkis* we have quytte, in considerratioun
 of the foirsaidis, and hes dischargit, and discharges,
 thame quyte of the samin, in favouris of oure said sone, 5
 and dochter, We have maid, and makis ane gift be *thir*
presentis signetted and subscryved with oure hand,
witht this provisioun and charge; that gif thair be ony
 processe moved for the saidis benefices, they sall nocht
 persew any of oure subiectis, bot befor these of oure 10
 judges to quhome *the* judgement, or jurisdictioun, of
 the desicioun of the samin appertenis. And also we
 gif command and charge be *thir presentis*, to oure
 belovittis; that haldis oure courtis of *parliament*, greit
 counsall, and oure comptis, At pareis, and to all our 15
 haillies, *shireffis*, provestis, and utheris oure justices, and
officeris, thair lieutenentis, *present*, and to cum, and
 to everie ane of *thaim* as to thame appertenis, and
 belangis, that be *this* oure *present* grant, licence, and
 permissioun, and of all the contentis of *thir presentis*, 20
 they mak, suffer and permit, the saidis subiectis and
 inhabitantis of the said realme of Scotland, to Injoy,
 and use fullilie, and peciablle: Ceissing and causing to
 ceis, all trublis, and hinderances, to the contrare, for sa
 is oure will, and plesoure, Nochtwithstanding *that* the 25
 valoure of the saidis rentis be nocht heirin speciallie
 expressit, nor declaired, that sic giftis ar nocht accustomat
 to be gevin; bot for the half, or the thrid, these
 ordinances, by ws and oure predicessouris, for the
 ordoure and distributioun of oure rentis; and siclyke 30
 that in the moneth of December last, quhairby it is
 sayd, that all giftis, deidis, and recompansis, salbe payed,
 be oure espargne, *thesaurar* espargne, or heich principall
 espargne thesaurare: To the *quhilk*, we of oure full
 poware, and autoritie royall, hes maid, nor makis na 35
 dirogatioun, but ony revocation again calling or con-
 tradictioun for evir be *thir presentis*, and to quhatsumeuir

uthir ordinances, restrictionis, chargis and defensis, that
 may be maid in the contrare, And because that men
 may have ado with thir *presentis* in many places, we
 will that at the sicht heirof, maid under oure royall
 5 seill or dewilie collationate be ane of oure Loyall or
 fideill notaris, or secretaris: faith salbe gevin as to this
present principall, originall, to the effect that it may
 be firme and stabill for evir. We have caused put to
 10 oure seill. Saiffand our richt, and all utheris richt
 quhatsumeir. Gevin at Vilies Cowstres In the moneth
 of Junij The 3eir of grace Ane thowsand fywe hundreth 1558.
 fyftie aucht 3eiris; And of oure regnne *the* twelt 3eir.
 Thaireftir upoun the threttie day of November The 3eir
 of god ane thowsand fywe hundreth fyftie aucht 3eiris
 15 foirsaid The *quhilk* day quene Marie, and hail thrie
 estaittis of parliament gaif speciall command all in ane
 voce but discrepance To Mr James Makgill of Rankelour
 Nethir clerk of register To gif the autentik copies to
 20 all desyris of the foirsaid act Anent *the* naturalizatioun
 of Scottismen in ffrance and of frenchmen in Scotland
 etc.¹ . . . Followis quhair we left, the rest of *the* Fol. 27.
 scottis kingis Lawes. To wit. [This] Achaius wrait
 of the actis of all his progenitouris [unto his awin tyme
 and regnne], And in lykemaner King Kenneth the
 25 secund surnamed the greit, the thriescoir and nynt
 scottis king quha overthrew the pictes, in divers
 battellis expellit thame out of the land, and joyned thair
 kingdome, to the croun of Scotland The 3eir of god,
 aucht hundreth threttie and nyne 3eiris: and *thairfor* 839.
 30 wes callit ane Monarch in rewenge of *the* murthoure
 and crowall slauchter, of Alphin his umquhll father.
quha beand takin in battell of befoir be the pictes wes
 beheidit: This Kenneth [2] his sone wes ane curagus
 king and a guid justiciare. He causit writ ane hudge
 35 volumes of *the* scottis lawes; And lyke ane uthir
 Justiniane, Reducit thame all in ane compendium. He

¹ The next line has been cut off.

834. began to regne In the 3eir of god aucht hundreth,
 threttie foure, and regned twentie 3eiris. Gregorius
 the fourt, *the* ane hundreth & thrid paip for the tyme :
 This nobill, and famous, king, and monarche, Kenneth
 keiped his subiectis eftir the exterminatioun of the 5
 pictes, in guid peax during his lyftyme, as ane wirthie
 prince, to have indifficient, prais, and gloir, and wes
 gevin nales to policie, and civile, maneris, than to
 chevelrie. He caused draw all the confused lawes of
 Scotland, in ane *compendius* volume, and abrogat, all 10
 sic as war unprofitabill, and maid new lawes, mair
 expedient, Off *quhilkis* 3it remanis sindrie As followes :
 1 In ilk Schyre of this realme, he ordaned men of
 iudgement, To decyde doutsum materis, quhen they
 occurred, and that *thair* sones sould lerne, And studie 15
 the lawes in *thair* tendir aige. 2. The lawes, and con-
 stitutionis, of *this* realme to be keiped onlie, be thame, and
 gif ony off thame beis convicted, of falsett, or ony uther
 cryme of liesmaiestie, They sould be hangit to the deid.
 3. He that is convict, of theft, sould be hangit. 20
 .3. He that makis slauchter salbe heidit.
 4. Ane woman convict, of any capitall cryme, salbe
 drowned, or buried quike :
 5. He that blasphemis God, or his sanctis, Or blas-
 phemis the king, Or his capitan sall want his tung : 25
 6. He that makis ane lesing in *dammaige* of his
nychtbour, sall tyne his sworde, and be exhiled fra guid
company :
 7. All persones suspected of any cryme, sall abyde
 the inqueist, of sevin vyse men, of nyne, ellevin, threttene, 30
 fyftene, and sua furth in od nowmer :
 8. All rewaris, oppressouris, and Invadouris, of uthir
 mennis landis, sall be heidit
 9. All vagaboundis, fuilis, bardis, skudlaris, and
 siclyke Idill peopill, salbe brynt on the cheik, and 35
 skurged with wandis, bot gif they find sum craft to
 wyn thair leving :

The p̄face

3. he that maketh stancher salbe herdet.
4. Ane woman to bid, of any capitall cyme, salbe drowned, or buried quēt:
5. he that blasphemeth God, or hit sanctis, or blasphemeth the king, or his capitā salbe want his tūg:
6. he that maketh and lesing in damage of his netts, or salbe tūg his blood, and be so hiled for a gūd company:
7. All persons suspected of any cyme, all ay bide the m̄gistry of schin, wyl men, of mysse, all be in, gretting, fusting, and sin fourth in d m̄wilde:
8. All reward, oppres, venis, and subadomis, of beth m̄miz landis, sal be herdet
9. All bagabomis, fush, bardis, stendard, and schyke, schyke, salbe bynt on the stat, and Emerged with wandis, bot gif they find firm trest.

Comen dāne l̄king:

10. ^{the wife} husbandis iniquite or fault; Bot ye man sal be
promysed for the crime of his wife, gif he kmit
the same crime: And gif she be wicht his wife
bot had contynue, she sal be promysed with siche
promysment, as the man deservis and sufferis, for his
fault and crime.

11. I De that Feibis, or bryden (bot gif she desyre
him in mariage) sal be heidit.

12. I De that feilzid and brymadid be, sal be put to
death, with the woman whil sche be deforsid:

13. I De that deforsid and woman sal be heidid; and
the woman sall suffer na stay, bot declared innocent:

14. Gif the sone be jumzionid to the father in word,
or ded, the member that feilzeit, quiddrit be foot,
tong, or hand, sal be entred for him, and efter that
promysment,

10. The wyffe sall nocht be punisched for hir husbandis iniquitie or fault; Bot *the* man salbe punisched for the cryme of his wyfe, gif he knew the samin cryme: And gif sche be nocht his wyffe bot his concubyne,
5 sche salbe punisched, with siclyke punischement, as the man deservis and sufferris, for his fault and cryme.

11. He that Revisis, ane virgen (bot gif sche desyre him in mariaige) salbe heidit.

12. He that fuilzeis ane uthir mannis bed, salbe put
10 to death, with the woman unles sche be deforsed:

13. He that deforses ane woman salbe heided; and the woman sall suffer na skayt^{ht}, bot be declared Innocent:

14. Gif the sone be Iniurious to the father, in worde,
15 or deid, the member that failzeit, quhiddir it be fuit, tounge, or hand, salbe cutted fra him, and eftir this punitioun, he salbe hanged on ane jebat, and his bodie Fol. 28.
sall remane unburyed abone the erd:

15. He that is ane man sleyare, or borne dum, or
20 unthankfull to his father, sall succed to na heretaige:

16. Jowglaris, wiches, and makeris of private pactionis with deuyllis, salbe brynt to the deid:

17. Na seid salbe sawin, quhill it be puryfeid fra all noysum¹ granis, he that sufferris his land to be fyled
25 *witht* guild, or siclyke unproffitabill weidis, sall pay for *the* first falt, ane ox to the *commoun* guid, for *the* secund falt ten oxin, and the thrid tyme he sall foirfalt and tyne his landis.

18. Gif ony *companzeoun*, or freind, be slane, in the
30 feild, he salbe buryed, and the *committare* left, but sepultour.

19. Ane beist beand gangand waif or vyld, salbe gevin to the awnare, or to the sercheour of thevis, or ellis to the preist of the parrochin, quha withhaldis it
35 thrie dais: salbe accused of thift:

20 He that fyndis, his nichtbouris geir, sall inquire

¹ Might be read "urysum."

be oppin *proclamatoun*, the awnare thair of, uthirwyis the finder, salbe punisched as ane theif:

21. He that streikis his collegitant, *perseware*, or defendare, in iudgement sall tyne his cause, gif the actor Invaid *the* defendare, his pairtie salbe absolved, 5 fra the petitioun, or the defendare, Invaid the *perseware*, sall obtene his clame, without any forther *proces*.

22. Quhen uncouth ky, fechtis or stryvis amangis thame selffis, gif ane of thame happynnis, to be slane, and uncertane quhat kow maid the slauchter, The kow 10 that is homyll, sall beir *the* wyte, and the awnare *thairof* sall recompane the dammaige of *the* kow slane to his *nychtbour*:

23. Ane swyne, or ony uther beist that eittis, or distroyes, thair birth, sall be slane and *thair* flesche 15 forboddin:

24. Ane swyne, that eittis corne, or wortis uthir mennis land, sall be slane, but or without ony redres to the awnare:

25. All uther beistis, that eittis uthir mennis corne, 20 or gres salbe poynded, quhill the awnaris thair of redres *the skaythtis* than done.

26. All ecclesiasticall persones, salbe haldin in reverence, and thair guidis exemit, to thair awin ordiner jurisdiction: 25

27. ffestuell, and solempne dais, fastingis, and all uther ordiner disciplene of the kirk, salbe observed, siclyke as *the* kirk hes institute.

28. He that hurtis ane Kirkman, in worde or deid, 30 sall be punished to the death:

29. All sepulturis, sall be haldin in reverence, and stanes with croces and utheris decent coverturis, laid or sett, on thame, that nane strampe thairon.

30. The place, quhair ane man, or woman, is slane, or buried, salbe sevin 3eiris unteild. 35

31. The corps, of deid men, or wemen, salbe buried effeirand to thair guidis: Gif he wes ane nobill man,

and did greit actis, for the commoun weill, his bodie
 salbe buryed, with funerall tryumphe in this maner :
 Twa horsmen sall pas befoir him, rydand to the kirk,
 The ane arrayed in his best claithing, haifand and
 5 beirand, his wapynnis, on ane quhyte horse, This
 uther, sall pas in dolourous weid, rydand on ane blak
 horse, And quhen the corps is enterit in the Kirk, the
 man with blak horse, sall turne his bak to the altare,
 and lamentable, deploir, the death of his maister or
 10 freind, and sall departe the samin gait he come ; This
 uther sall offer his hors armour and wappynnis to the
 preist, and *thaireftir* burie him in magnificent sepulture :
 This custome of burying, of nobill men, was abbrogad
 eftir be the peopill, and in redemptioun thair of, they Fol. 29.
 15 payed fywe pundis money to the priest of the kirk.
 This nobill King Kennet^{ht}, with thir, and mony uthir
 guid lawes, and Institutionis, governed his peopill to
 the end of his lyfe in guid peace and justice etc. In
 the 3^{er} of god aucht hundreth fyftie and Nyne 3^{eris}, 859.
 20 king Constantine the secund, Kenneth his sone began
 to regnne, ane richt valient king and a guid justiciare,
 he institute sindrie guid lawes, for kirkmen, and utheris,
 And to redrese, all materis neglected, and done, sen his
 fatheris deceis, he caused convene, all his nobillis and
 25 haill estaittis, to ane counsall, At skone, quhair he be
 publict autoritie, maid thir lawes underwritten :

In the first he commanded, kirkmen to await
 diligentlie on thair cuir and office, in doing of divyne
 service, and that they sall absteine, fra all prophane
 30 labouris, and leif content with the patrymonie per-
 tenand to thair kirk's : That they sall preich the worde
 of god to the peopill, that they sall leif on the samin
 maner, as they teich the peopill / And to that fyne, and
 end, that *thai* may the mair easelie serve god, They
 35 salbe frie in tyme cuming, of all charges pertenant to
 the wearis, They sall nother, Nureis hors nor houndis,
 for thair plesoure, They sall beir na wapyynis, nor

decyde prophane actionis, And gif thir kirkmen failzeit, and did nocht *thair* devoir, as christiane peopill *thocht* ressonabill, They sall pay for the first fault greit summes of money, and for the secund falt, gif they amend nocht *thair* lyfe, they sall be degraded, 5 and depryved of thair preistheid :

2. Young childrene salbe refraned fra all lustis, and Nurished, with ruid meit, and sall eate bot anis in the day, and absteine fra all thingis that may mak thame drunken : 10

3. Ane chyld, or ane Madin, that is fundin drunkyn, salbe punished to the deid :

4. Young men, salbe exerciced in swift rynning, wersling, with corsbow, hand bow, and casting of dartis, to hald thame fra sic thingis as makis thame 15 effeminate, and they sall sleip on buirdis, and harde beddis, to mak, thame habill, to suffer distres in the kingis wearis, Nane of thir thingis war Inhibit to aided men, bot allanerlie to eschew superflew, and mony courses etc. 20

5. Item it wes commanded, be the same decreit all tavernaris, drunkcardis, bordollaris, and provocaris, of *the* peopill, to intemperate dyett, or lustis, sall pas *further* of *the* cuntrie, within ane certane day, under the pane of death : Be *thir* lawes, the peopill war maid 25 within schorte tyme, of licherous gluttounis, temperate men, of soft bodyed personis, reddie to suffer labouris, and of effeminate creatouris, war maid vys men, and manlie campyonis, followed sone eftir, greit felicitie in this realme, throw wyis and prudent administratioun 30 of justice, be that nobill King Constantyne to his lyves end : lib. 10. c. 15.

376. In lyk maner, [King] Gregorie, surnamed the greit, *the* thrie scoir threttene scottis king, quha regnned in the 3eir of god, aucht hundreth thriescoir and 35 sextene, the space of auchtene 3eiris thaireftir. He wes ane richt valient, and maist vertuous king,

renowmed throw the warld, as ane guid justiciare, in
his tyme paip Jo^hn the aucht wes the ane hundreth
[and] nynt, bischope of rome, He sett ane con-
ventioun of his nobill^s and estaittis At fforfar, for
5 agmentatioun of devyne service, and that kirkmen,
mycht the mair frielie, gif thair attendance, to ordour
thame in guid religioun: He statute be publict
parliament, That kirkmen salbe perpetuallie exoner-
ed of all wearis, triebuttis, and publict exactionis, that ar
10 to be put, on the peopill, be him or his successouris Fol. 30.
in tymes cuming: And they sall nocht be drawin,
befoir prophane judges: He gaif poware to all
bischopis, of this realme, to decyde afoir thame all
actionis, pertenant to faith of bodie, with poware
15 baith to cause the peopill keip *thair* faith, promitted to
thair nychtboure; and to punische thame for violating
or breking thair of: He gaif als poware, to the said
kirkmen to mak lawes and constitutionis, for the weill
of christiane faith, And to discuse, all debaittis, con-
20 cerning oblationis or teindis, testamentis, obligationis
or legacies, to interpret the lawes, and to punis
mansworne peopill, blasphemaris of god and his sanctis,
To curse all peopill rebelland to thair constitutionis,
and to inhibit thame to cum quhair devyne service wes
25 done, and that all persones (*quhilkis* war cursed be
thame) suld bruik na heretaige, nor be harde in
judgement, bot exiled guid cumpny, and na faith to
be gevin to thair depositioun as witnes: He com-
manded that all kingis and princes succeding eftir him
30 sall mak thair aith, eftir thair coronatioun, to defend
the honoure, and libertie of halie kirk, and kirkmen,
and sall mak na derogatioun, to the constitutionis of
the kirk:

This king Gregorie had ane naturall inclinatioun to
35 the service of god, with sa grave and sententious,
languaige, that all his wordis, and deidis, appeired as
they had bene pased in iust ballance: He was sa

instructed in his youth, that he leved all his dais, ane hevynlie lyff, of skars fuid and sleip, but ony lust or conversatioun, of wemen, and had Ingyne na les gevin to polacie and administratioun of justice, as in curaige of chevalrie : lib. 10. c. 19.

5

894. Lyke as King Donald *the* sext, *the* .74. scottis king, quha regned anno .894. wes ane valient prince, and godlie, he punised *witht* greit severitie, *the* blasphemaris of godis name : he gaif his ingyne mair to policie and iustice, than chevalrie : and governed the realme in sic 10 tranquillitie, and iustice, that his peopill grew dalie in greit riches, seing na Innimies appeirit, nor na weiris wes within this realme : in this king Donaldis tyme : ffor christ *the* lord of all virtew gaif him sic grace, that he baith honoured and defendit all servandis of 15 god ; he causit mak ane edict and law, that all peopill that blasphemit god or his sanctis, or mansweir thame selffis, or spak of *the* devill suld be brynt *witht* ane hett yrne on *thair* lippis. lib. 10. c. 22.

943. [Lyke as King Malcolme the first and thriescoir sex- 20 tene Scottis King quha regned in the 3eir of god nyne hundreth fourtie and thrie 3eiris and regned nyntene 3eiris wes ane guid justiciare.

961. As lykewyis King Duffus the thriescoir auchten Scottis King quha regned eftir Christ The nyne hundreth 25 thrie scoir ane the space of fywe 3eiris wes ane varray great seueir justiciare]

I have insert heireftir *the* sevint chaptour, of *the* ellevint buik of Mr Hectoure boyes cronicle : Because it is sa wirthie to be red, and had in memorie Discryvand 30 the lyfe, and governament, of King Kenneth. the thrid, his oryson and lawes maid be him, as *the* .80. scottis king quha began anno 970 & endit 994. That it is ane preface and inductioun to the purpois following. Eftir *the* deceis, and slauchter, of King Culyne quhilke 35 wes in the 3eir of god nyne hundreth thriescoir and tene 3eiris, The foirsaid King Kenneth the thrid brother to

994.

970.

King Duffus, wes maid King of Scottis : In *the* begyn-
ning of his Impyre he had greit labouris to bring the
peopill (*quhilk* wes growin wyld be Negligens of Culan)
to virtewous leving : ffor it is ane thing dalie practised
5 amangis ws scottis, first the nobillis and syne *the* com-
monis followes the maneris of the king ; gif the king be
virtuous, the peopill be imitacioun of him inclynis to
virtew, Quhen he is vicious, the peopill on *the* samin
maner followes his vyces (King Kenneth that he suld
10 nocht detest *the* schamefull deformities in utheris
quhilkis war appeirand in his self) schew him to the
peopill, as ane chaist prince, of skars fuid, liberall, and
meik in all his doingis, haitting all skowrilitie, he
banished all tavernaris, druncardis, skaffaris, and vane
15 fleicheouris, out of his house, and Nurised concorde,
baith with uncouth, and domestik peopill, sa far he
haitted all seditioun, that he punised *the* movaris thair of
to the death, and had sik affectioun to *the* commoun
wealth, that na man wes sufferred to abyde in his
20 courte, bot sa mony as had sufficient virtew and craftis
to win thair leving : thus war his subiectis nethir effe-
minate be lang sleuth, nor 3it Irked, with exercitioun of
guid warkis.

This prince, for his virtuous governance, wes repuite,
25 maist wirthie to regnne abone his peopill : and tuik
purpose, to pas throw all the boundis of his realme for
punition of thevis. At his cuming to Lanark come
sindrie of his subiectis to him, and *complained* of mony
Importabill Injuries and wrangis done to thame, be
30 sindrie lymmeris of *the* cuntrie : Alsome as thir lymmeris
war advertesed that the king wes to sit in judgement for
executioun of iustice ; they fled be assistance of the
nobillis, in the Ilis : the king *rycht* commoved, that he
wes stopped on this maner be his nobillis to do justice
35 superceded his displeasure, for ane tyme ; And in the Fol. 31.
nixt 3eir following : he maid ane generall conventioun
of his nobillis, At Scone, in the nicht afoir his *conven-*

sioun, he had ane nowmer of armed men in ane quiett
 chalmer, nocht far fra the place; quhair *the counsall*
 wes sett, Commanding thame, to be secreit, quhill *thai*
 war warned, and than to execute the charges committed
 to thame On the morrow, all his nobillis war ordoured, 5
 at *thair conventioun*, in thair awin places, ay narrest the
 king as they war of bluid and auctoritie: In the
 meantyme, thir armed men Isched out of the chalmer,
 quhair they war hid, and stuid about *the counsall*:
 Kenneth seing thame estonised sayd in *this maner*. 10
 Howbeit 3e dreid, that this new gyse of iudgement be
 above the auld custome of oure eldaris (wys freindis)
 succeid to 3oure displesoure, for feir of thir armed men
 that standis about 3ow, 3it gif oure mynd (*quhilk* is set
 on na thing mair than to the *commoun* proffett of our 15
 realme and 3ow) ar nocht ordaned, to do any dammaige
 to 3ow, nor to the nobilitie of scotland, bot onlie to be
 the sicker targe of oure *commoun* weill. Beleif nocht
 (vys freindis) that we with ony tressonable slichtis, hes
 brocht this gaird to 3our destructioun, sen 3e ar the onlie 20
 esperance* of oure realme / Thairfoir understand thir
 armed men schawes na mannassing bot defens of 3our
 singulare and *commoun* proffett: Thair is sindrie evill
 disposed persones in this realme, ay repugnand to the
 weill thairof, and gevin to thift, reif, slauchter, birning, 25
 and siclyke Importabill extorsionis, on the peopill, 3e
 knaw quhat enormities hes bene done, baytht in the
 tyme of Culyne, and in the begynnynge of our Impyre in
 perpetuall eversioun of our *commonis*. And 3it 3e knaw,
 oure *commonis*, with thair *continewall* Labouris sustenis 30
 ws, We ar richlie cloithed, and hes all kynd of coistlie
 meittis, they ar puirly arrayed, and levis of skars fuid,
 and sen we haif all the fruite of thair labouris, I think
 quhen thair guidis ar saif, we ar saif, quhen they ar
 heryed and put to povertie, nane of ws ar at ease. 35
 They wirk thocht we be Idill, and with *continewall*
 laboure, wyznis ws riches: the fruitis of thair labouris

cummis to ws, and nocht to thaimself Thairfoir, quha
 revis thame revis ws, Quha Nurisches thevis, in thair
 dammaige ar Innimies to ws and oure *common* weill /
 ffor thir ressones, and sic Importabill Iniuries, on
 5 Innocent peopill suld be Inhibit ; and nocht onlie suld I
 desyre sic thingis to be done, bot 3e suld desyre thame
 on *the* same maner, gif 3e be effected outhir to the weill
 of *this* realme or to 3our self, 3our wyffes and chyldrene :
 We desyred as 3e remember at lanerk, to purdge this
 10 realme, of all misdoaris, that the *commonis*, and nobillis,
 may be Nurished in tymes cuming, in peax and tran-
 quilite, 3it thir Misdoaris in contemptioun of oure
auctoritie compeired nocht in judgement : And thocht
 I knaw na thing bettir, than thair conveying away be
 15 assistance of greit men, 3it I superceded this offence
 quhill moir opportunitie occurred, howbeit mony of 3ow,
 (as we war sickerlie informied) war participant thairwith
 and convoyed thame fra oure justice : Attoure the fre-
 quent messaige send betuix 3ow, and thir thevis, makand
 20 na deligence to bring thame to oure iustice, hes maid the
 mater moir credabill Nocht*theles*, in quhatsumeuir way
 the mater standis, We have removed all suspitioun, gif we
 have had any aganis 3ow, and haldis ws at this tyme nocht
 as favouraris of *lymmeris*, bot arare defendaris of oure
 25 realme / Prayand 3ow (gif 3e have in ony tymes bygane,
 bene mair sleuthfull than neid wes) to repair all errouris,
 that 3e may appeir as luifaris of 3our singulare and
commoun weill : And first I will that 3e bring thir thevis,
 and rebellis, to *our* iustice, that they may be punished
 30 according to thair demereittis : ffor I promes 3ow, 3e
 sall nocht be delyvered of this gaird, quhill I se thame
 put to *death* : And the moir haistalie that 3e put thir
 charges to execution, the moir haistalie sall 3e be
 delyvered of bondaige and richelie rewarded for 3oure
 35 labouris : The nobillis heirand thir wordis, fell on kneis
 Prayand him to remit all offence done aganis his maiestie,
 and promitted *nocht* onlie to do all charges as he desyred,

Fol. 32.

bot to remane *quhair* he plesed *quhill* thair freindis had
 brocht *thir lymmeris* misdoaris and rebellis to his iustice,
 Sic thingis done the king brocht all his nobillis with
 strang gaird to the castell of Bertha, this castell stuid
 upoun the watter of tay, and wes sa straitlie keiped in 5
 these dais, within watche, and out watche, that na man
 gatt Ische, and *entrees*, but speciall licence of the king :
 all vagaboundis and Idill peopill (*quhilks* war found in
 the gait) war brocht for suspicioun to the castell, The
 nobillis in *the* meantyme war occupyit with reiding of 10
 histories, for than wes *nocht* used sic hant of dyse and
 cartis, as ar now used *ffynalie* they maid sic wayis, be
 extreme deligence of thair freindis, that fywe hundreth
 of the maist notabill theivis war brocht to the castell of
 Bertha and hingit on jebettis, and thair bodyis Inhibit 15
 to be tane down to gif exampill to utheris, quhat frute
 followes on sic crymes. Sic thing done the nobillis,
 war delyvered, and exorted be the King nocht to suffer
 the peopill to be Iniured with sic oppressoures in tymes
cuming : The scottis remaned mony 3eiris eftir in sicker 20
 peace. lib. 11. cap. 7 etc. This nobill and virtuous
 King Kenneth the thrid thaireftir At ane battell betuix
 him and the danis maist curagiouslie and valientlie
 fochin besyde the toun callit loncartie nocht far frome
 the Watter of Tay quhair he over threw and vinqused 25
 his Inimies be the help and manheid of that Illustrate
 surname of the Hayes, quhome he richt nobillie and
 richlie rewarded, Lyke as to move all the rest of his
 nobilitie and armie with hie and manlie curaige of spreit
 aganis thair Inimies, he discharged *thaim* of all mailles 30
 and dewties auchtand to him of thair landis for fywe
 3eiris to cum, Syne *promitted* be oppin *proclamatoun* to
 gif to Ilk man that brocht to him the heid of ane dane
 Ten pundis or ellis land perpetuallie correspondant
 thairto. This nobill king sua decored this realme with 35
 iustice, That be the advise of his nobillis he abrogat the

Nota The
 battell at
 Longardie
 win be *the*
 Hayis and
 nobillis ¹

¹ Two or three words erased.

auld lawes concerning the creatioun of *thair* king and
 maid new lawes in maner following The king beand
 deceissit his eldest sone, or his eldest (Nepott or oy Nocht-
 withstanding quhatsumeuir aige he be of, and thocht he
 5 war borne, eftir his fatheris death) sall succed to the
 croun. The nepot or oy gottin on the kingis sone salbe
 preferred to the Nepot or oy gottin on the kingis dochter.
 On the samin maner the Nepott or Oy gottin on the
 kingis brother salbe preferred to the Nepott or oy gottin
 10 on his sister. The samin law salbe observed, amangis
 all uthir nobillis of this realme in successioun to thair
 heretaige. Quhen the king is 3young ane nobillman of
 greit prudence, and autoritie, salbe chosin governoure
 of the realme, quhill the king be cumin to the aige of Kings age.
 15 fouretene 3eiris, quhilkis 3eiris beand outrun, the king
 salbe frie to governe his realme be his awin autoritie.
 All *utheris* heretouris sall succed to thair fatheris here-
 taige eftir the Ische of twentie ane 3eiris, and within that
 tyme, they salbe governed be thair curatouris, and quhill
 20 that 3eir be outrun they sall nocht be admitted to clame
 thair heretaige: Kenneth traisting the realme stabill to
 him and his posteritie be thir lawes, governed the
 commonis in greit justice; and drew the nobillis be
 donatioun of landis and guidis in favour: And thocht he
 25 wes repute richt happie be sindrie opinionis, 3it he wes
 maist unhappie to him self, evir dreidand in his mynd,
 that the Innocent slauchter, and Murthour, of Malcolme
 Duff the prince of scotland, his awin brother sone
 (quhome he abefoir had causit maist tressonable to be
 30 poysoned) suld cum sum tyme to licht, and wes sa full
 of suspicioun *that* he belevit, quhen ony man rounded to
 his fallow, that they war speikand evill of him, Seing it
 is gevin be natour to ilk creatoure, that quhen they ar
 giltie of any horrabill cryme be Impulsiou of thair con-
 35 science to suspect everie thing *that* they see, to be ane
 greit terroure to thame self, in the samin maner thocht
 King Kenneth had his realme in guid tranquillitie, but

ony Invasioun of Innimies 3it he wes havilie vexed in his
 mynd, At last quhen he wes lyand in his bed he hard
 ane voce as it appered be sum visioun Sayand to him
 in this maner O Kenneth beleif nocht, that the cursed
 Murthour of Malcolm Duff thy awin brother sone is hid 5
 to God, O thow unhappie tirran, (quhilk for desyre of
 the croun) hes slane ane Innocent Invading thy awin
 brother sone with tressonabill murthoure *quhilk* thow
 wold have punised with maist rigoure, gif it had bene
 done be ony uther persone than thy self: And thairfor 10
 Fol. 33. thow hes incurred sic haitrent of god, that bayth thow
 and thy sone, salbe haistalie slane; ffor now sindrie
 of thy nobillis ar conspyred in thy death, traisting quhen
 thow and thy sone ar slane to Inioyse the croun at thair
 plesour, The king wes sa affrayed at *this* voce and 15
 visioun, that he past *the* remanent nycht with greit noy,
 and displesoure, And on the morrow, he maid his
 confessioun with greitt repentance to ane halie bischope
 named Moueane, and confest the cryme in the samin
 maner as it wes done / The bischope herand him pene- 20
 tent Conforted him and according to his repentance
 persuaded him of forgifnes, and Sayd thocht his offence
 wes odyous, 3it god wes *mercyfull* Quhais infynit *mercies*
 wes abone his warkis, and the treuth of his promese to
 penitent synneris indured for evir etc. ffynallie King 25
 Kenneth, be counsall of this halie man, began to do
 sindrie warkis of pietie, and left nocht undone that
pertenit to ane christiane prince etc. Be *this*, and uthir
 lyke it may be *speciallie* remarked, that quhen kingis,
 princes, and utheris, governis nocht, be guid counsall, bot 30
 be hid Invy, malice, and thair awin particulare proffett,
 They wirk thair awin uthir rewyne and decay As *the* end
 of this king and his sone dois testifie etc. lib. 11. c. 10
 et 11. And Inlykemaner, King Macolme the secund
 Kenneth the thrid his sone, and fourescoir and thrid 35
 king of Scottis, quha [began and] regnned in the 3eir of
 god, Ane thowsand, and foure, 3eir [the space of

threttie 3eiris] wes ane valient vys and liberall king, and
gaif and disponit to his nobillis, barronis and servandis,
all his landis riches and guidis with sik liberalitie, be
ressone of thair greit vassalages and guid services, that
5 he left littill thing to sustene the croun, Sua *that* all his
nobillis, barronis, friehalderis, and estaittis haifand con-
sidderratioun thairof, and that the croun of Scotland,
suld nocht be puir and indigent, Thay grantted, gaif,
and disponit, to this king malcolme the secund and
10 his airis for his liberalitie schawin to thame at that
tyme, All the wairdis and releiffis of thair landis with
the maraiges of thair heritouris perpetuallie in all
tymes cuming, And he and his foirsaidis, to Inyoyse
the *commodities*, and proffettis, of thair saidis landis
15 quhill the heretouris thairof, war of twentie ane 3eiris
compleit.

Siclyke this king Malcolme .2. haifand endit his weiris
caused mak generall processionis throw all this realme
gevand thankis to god for delyvering thame fra boundage
20 of thair Innimies, and caused the kirkis *quhilkis* war
distroyed be croweltie of weiris to be repaired, and mair
reverence to be gevin to god and his *servandis*: And
commanded his lawes to be observed: *quhilkis* mony
3eiris afoir mycht haif na place be ressoun of the saidis
25 waris: This wes done At ane conventioun be his
maiestie his nobillis and estaittis haldin At Bertha,
quhilk wes ane castell standand that tyme nocht far
frome the place quhair the toun of perth als callit
Sanct Jounstoun now *presentlie* is citated. This nobill
30 King Malcolme Remembring his wow maid in his ex-
treme neid at battall Caused build ane kirk besyde
Murthak in mar in the honoure of Sanct Melok, and
gaif thairto all the landis, Murthlak, Clouauch, and
Dulmaik, with the teindis thairof, to sustene the bischope
35 of Murthlak. This seat wes callit the seate of Murthlak
to the tyme of King David the first, be quhome it
wes transportit to the toun of auld Abirdene, and wes

than dotted mair richlie Nor of befoir. vid: 199. fol. huius libri. As *the* samin beiris. Alsua he caused mak and writ mony guid lawes of the *quhilkis* sum ar 3it extant in the begynning of the buikis of *the* maiestie As the samin proportis. This King Malcolme 5 had bene in fame and prais nocht behind ony uthir prince that evir wes in this realme in ony mannis aige, gif his virtew had continewit in his lattir dais as wes in his 3outh or begynning of his regnne. Nochttheles all his excellent doingis in his first mannis aige war all 10 for3et and degenerate, in his auld and declynning 3eiris, be his Immoderate avaracie, ffor as oftymes occuris, he come baith attanis to eild of 3eiris and gredie avariciousnes the ruit of all evillis. Be the *quhilkis* to recover the landis gevin be his liberalitie, to his 15 nobillis and trew servandis of befoir, he causit sla and baneis mony of thame be vane and fen3eit causis takand thair landis, lyves, and bluid, Sua that these bluidie men Conspyred aganis him, and richt treasonable tuik his lyfe, At glammis *quhair* he wes slane maist 20 crowallie the threttie 3eir of his regnne And 3eir of god Ane thowsand threttie foure 3eiris, lib. 11. c. 19. [He wes ane guid justiciare and regnne in Johnne *the* sevintene and Johnne the auchtenes tymes, and in Sergius the fourt and Bennedictus the sevint paipis 25 tymes.]

1034.

Fol. 34.

1040.

And richt sua Makbaith usurped the croun of Scotland as the four scoir and fywe scottis king *thairof* and began to regnne in the 3eir of god ane thowsand and fourtie 3eiris, In the begynning of his regnne he 30 appeirit to be ane guid iusticiare, and wes estemit as ane suir defendare of Innocent peopill, for he maid mony guid lawes and patt the samin to seveir executioun aganis malefactouris 3it because he wes ane usurpare he could nocht lang continew for in end god 35 the rewengare of all wrangis causit his slychtis to kyth and be devulgate as his end declared, And seing his

lawes war weill institute They ar collected in maner following. 1. In the first, He that wes *withtin* the ordouris of service in the kirk, sall nocht *answer* afoir ane prophain judge, bot salbe remittit to his iudge
5 ordinare. 2. The tent pairt of all fruttis growand on the ground salbe gevin to kirkmen, and god salbe adorit with oblationis and prayar: 3. He that perseveiris in *contemptioun* aganis *the* kirk, standand, or continewand cursit, or *excommunicat*, ane *zeir*, and will
10 nocht be recounseillit with *the* kirk, salbe repute Innimie to the *commoun* wealth, gif he perseveir with Indurate mynd twa *zeiris*, all his guidis and geir salbe confiscatt. 4. He that is maid *knycht* salbe sworne to defend wedowes, *commonis* and pupillis, And he that is maid
15 king, salbe sworne in the *samin* maner. 5. The eldest dochter sall succeid to the heretaige, failzeand of the eldest sone, 6 And gif ony woman marie with the lord of the ground sche sall tyne hir heretaige. 7 Na man sall possese landis, rentis offices, or biggingis, be
20 ony uthir *authoritie*, bot allanerlie be the kingis licence. 8. Na office salbe gevin in heretaige, bot during *the* kingis *plesour*. 9. Na man sall sit in prophane nor temporall actionis without *commissioun* of the king. 10. All *conventioun*, office and iustice salbe led in the
25 kingis name and *auctoritie*. 11. He that makis band, or is sworne man to ony uthir bot allanerlie to the king salbe punisit to the death, and Ilk man salbe bund to defend the king, aganis all uthir levand creatouris. 12. He that raisis the kingis liegis salbe put to death
30 and his guidis *confiscatt*, and all the peopill that ar gadderrit on *the* *samin* maner. 13. He that followes and persewis ane man passand to kirk or markett, or ony uthir *conventioun*, salbe punist to the death, without he gett his lyffe be his industrie that he followes.
35 14. Ane horse haldin be *the* *commonis*, to ony *uther* use, than labouring of the erth salbe escheit to the king etc. 15. ffulis *menstrallis*, bairdis, and all uthir

sic Idill peopill (bot gif they be speciallic licencit be the
 king) salbe compellit to seik sum craft, to win thair
 leving, gif they refuse, They salbe drawin lyke horse in
 the pleuch and harrowes. 16. Howbeit the sone be
 put in fie of the land during the lyfe of his father, be 5
 licence or *confirmatioun* of the king, 3it he sall be dis-
 heresit eftir, gif his father be fund cryminall, to the
 kingis maiestie in treasone etc. 17. All wemen that
 is mareit with ony frie barroun, or lord, howbeit sche
 have na barnis to him sall have *the* thrid of his land, 10
 eftir his deceis, and the remanent salbe Inioysed be
 his airis. 18. All greit baronis salbe inhibit, to marie
 with uthir under the pane of death, *speciallic* gif thair
 landis and rowmes lyis togidder. 19. All armoure and
 wappynnis, that ar borne to ony uthir effect, than to 15
the kingis weiris, salbe confiscatt with all his *uthir*
 movabill gudis. 20. The kingis capitane that byis ony
 landis within the boundis, quhair he is capitane, sall tyne
 baith the land and the money. 21. Siclyke gif he marie
 his sone, or dochter, with ony folkis duelland within 20
 his boundis, he sall tyne his office, and it sall nocht be
 lesum to his sone, nor his mauchis to bruik his office.
 Thir and siclyke lawes war used be Makbaith etc.
 Fol. 35. Throw *quhilk* he governed the realme, Ten 3eiris in guid
 justice howbeit *the* samin wes contrare to his naturall 25
 inclinatioun, ffor he wes gevin to conquese the favoure
 of the peopill, and to stablische this realme to himself,
 rather than to ony sicht or effectioun he had to the
commoun wealth. etc. Schorte tyme efter, This Makbeth,
 turned fra all meiknes, to his Innative crowelty, beand led 30
 be wod furyis, as the nature of all tirannis ar, *quhilkis*
conquesis landis, or kingdomes, be wrangus tytill, ay
 full off havie thocht, and dreddoure. and traisting Ilk man
 to do siclyke crowelties to him, as he dois to utheris,
 fforther he remembring on weirdis gevin to him be 35
 wiches and sosarie in visionis; that Banchois posteritie
 suld Injoyse the croun of Scotland, be lang possessioun

- of progres: This makbaitht slew Bancho, be nicht, Bancho
cummand fra supper out of the usurparis house, and thayne of
Banchois sone ffeance beand with him eschaiped Lochaber.
unslane, be the provydens of god, at that tyme,
5 3it thaireftir be ane uther occasioun, to wit for his
defloring of the prince of vaillis dochter, he wes
slane, And sche being delyverit thaireftir of ane man
chylde callit Walter, Quha lang thaireftir, become in Banchois
sik estimatioun, that he wes maid greit stewarte of succes . . .
10 Scotland, and sua be his office, wes callit Walter Stewart.¹
Stewarte, quhilk Walter, had ane sone callit Allane 249 fol.
Stewarte, he wes ane richt valient man, and did mony
vassalages aganis the turkis, and utheris about the
3eir of god, ane thowsand, foure scoir nynetene 3eiris: 1099.
15 Off this Alan, wes gottin Alexander stewarte, quha
caused found the abbay of Paislay. Off this Alexander,
wes gottin Walter stewart, of Dundonald, quhilk faucht
richt valiantlie in supporte of King Alexander the thrid,
at the battall of larkis, as eftir salbe schawin. This 3 Aug.
20 Walter, had twa sones, the first named Alexander, quha 1263 fol.
faucht with his father at the said battall, his secund sone
Named Robert stewarte, quhilk gatt the landis off
Terbowtoun, and mareit the air of Cruikstoun, fra
quhome descendit the erlis of Levenax, and Darnelie /
25 Item of this Alexander stewarte, that founded Paislay
Alanes sone Wes gottin sindrie uthiris sones, Johne,
James, and sindrie utheris, howbeit they tuik new
names, and surnames, be name of the landis, to quhilkis
they succedit. This Johne stewart, eftir the deceis of
30 his brother James, maryed the heretrix of bonkill, ane
virgen of greit bewtie, and begatt on hir Walter stewarte,
quhilk succedit to the landis of bonkill, Ranfrow,
Rothsay, bute, and Stewartoun, eftir that his father
Johne, wes slane at the battall of falkirk. This Walter
35 Stewarte, Maryed Marjorie bruce dochtir to king Robert
bruce, of quhome wes gottin Robert the secund, and

the succes-
sioun of the
Stewartis of
Buit, Ren
. . . Rothis-
say and
stewart . . .
etc. of
quhome suc-
cedit lordis
Ochilttrie in
Kyle . . .
art and to
the landis
& . . .
arran now
ane erldome
. . . almoist

¹ Part of this marginal note has been cut away in binding the MS.

direct north
24 . . . of
lent/it and 16
of bredth or
thairby.¹
1298. 22.
Julij Mag-
dalen day.
fol. 39.

first king of the Stewartis. This king Robert *the*
second tuik Issobell Mure, ane virgen of Incredabill
bewtie, dochter to *Schir* adame Mure Knycht, in place
of his wyffe, and begatt on hir thrie sones, and thrie
dochteris, The first wes Johnne, thaireftir Named 5
Robert, 3. *quhilk* succedit Immediatlie to *the* croun,
and wes callit King Robert the thrid, The secund wes
Robert erle of ffyffe, and menteith, Duik of Albanie,
quha wes governour of Scotland fyftene *zeiris*. The
thrid sone wes named Alexander, erle of buchan, and 10
lord of badjenoch, The eldest dochter wes maryit, on
James sone and air to Williame erle of Dowglas. The
secund wes mareit on John Dumbar, brother to george
dumbar erle of marche, *quhilk* John wes thaireftir
maid erle of Murray / he gatt on hir bot ane dochter, 15
quhilk wes mareit on the dowglas, and sua the dowglas
come to *the* erldome of Murray. The thrid dochtir
of King Robert *the* thrid foirsaid, wes mareit, on Johnne
Lyou, quha wes maid thaireftir lord *glammis*; Attoure,
this Robert *the* secund, and first king of the Stewartis 20
wes maryed, on Ewfame dochter to the erle of Ros,
and begat on hir, twa sones, Walter erle of Athoill, and
David erle of strathterne, This Walter, Intysed Robert
duik of Albanie governoure, foirsaid to slay David
Stewart duik of Rothissay, and eftir *the* hame *cuning* 25
of King James the first, he soliscit that King to slay all
duik Robertis *lynnaige*, on the *samin* maner, Ay traist-
ing eftir *the* slauchter of his freindis, to cum to the
croun, And fynallie he soliscit, his oy or nepot, Robert
Stewart, and Robert grame his dochteris sone, to slay 30
King James *the* first, ffor *the quhilkis* crymes, *the*
foirne~~mm~~it Walter, wes eftir convict and distroyed with
all his sones, and of his dochtir, David erle of buchan
come na successioun, And thairfoir, bayth thair landis,
returned agane to the croun of Scotland, but ony 35

¹ The left-hand portion of this marginal note has been cut off in binding the MS.

memorie of thair bluid : Off Robert Stewart duik of
 Albany come duik Murdo, *quha* maryet the erle of
 lennox dochtir, and begatt on hir thrie sones Walter,
 Alexander, and James. Duik Murdo with his first twa Fol. 36.
 5 sones, war slane at streuiling, be king James the first,
 and the thrid brother James ; to revenge thair slauchter,
 brynt *dunbartan* and eftir that, he wes exylit to Ireland,
 quhair he deceissit but ony successioun : King Robert
 the thrid secund of the *stewartis* Maryed, Annabill
 10 Drummond, dochtir to *Schir Joñn* Drummond of Stob-
 hall Knycht, and gatt on hir David, and James : the
 first deit in falkland ; and that uthir wes King James
 the first, *quha* maryed, Jeane dochtir to Johne bewfurde,
 erle of *summarset* in ingland ; he begatt on hir twa
 15 sones attanis borne, Alexander, and James : the first
 deit in his infancie ; the secund wes King James the
 secund, *quha* had sex dochteris, quhair of the eldest wes
 maryed, on the dolphene of france : The secund on
 the duik of bartanze : The thrid on *the* lord of Camfeir :
 20 The ferd on the lord Dalkeith : The fyift on the erle
 huntlie ; The sext had na successioun : King James the
 secund maryed, *margaret* dochtir to the duik of gylder :
 and begatt on hir thrie sones and twa, dochteris : The
 first sone wes King James *the* thrid, The secund wes
 25 named, Alexander duik of Albanie, *quha* maryed, first,
 the erle of Orknayis dochtir, and begatt on hir *Alexander*,
 that wes bischope of Murray : And nocht lang eftir he
 parted with hir : and went in france, quhair *the* said
Alexander duik of Albanie maryed, the countes of
 30 bullony, and begatt on hir *Joñn* Stewart duik of
 Albany ; *quhilk* wes mony 3eiris governoure of Scotland :
 The thrid sone of King James *the* secund foirsaid, wes
 Johnne Steward, that wes erle of mar, *quha* wes slane
 in the *cannogait*, besyde Edinburgh in ane bath fatt :
 35 The first dochter, of James the secund foirsaid, wes
 maryed on the lord boyd, on quhome wes gottin ane
 sone ; *quhilk* wes slane be *the* lord Montgumrie ; and

ane dochter callit Gregane, quha wes maryed eftir, on
 the erle of Cassillis; And eftir the deceis of *the* lord
 Boyd the fairsaid first dochter, of King James *the*
 secund, wes Maryed on the lord *hammiltoun*, and be
 that way the house of *hammiltoun* is decoired, with the 5
 kingis bluid: The secund dochter of King James the
 secund, wes maryed on the lord crychtoun, and of hir,
 come littill successioun wirthy to have in memorie:
 King James the thrid maryed Margaret dochter to the
 King of Denmark, on hir wes gottin King James *the* 10
fferd, *Alexander*, quha wes bischope of Sanctandrois, as
 also duik of Albany, and Johnne Stewarte erle of Mar:
 and these twa deceissit baith without ony succes-
 sioun: King James *the* ferd Maryed, Margaret dochter
 to king henrie the sevint, and begatt on hir King 15
 James the fyft onlie: This King James the fyft Maryed
 first, Magdalene dochter to king *ffrances*, the first of
 that name king of *ffrance*: quha deceissed schortlie
 thaireftir, without successioun: Thaireftir he maryed,
 Marie of Lorane Duches of longauile dochtir to Claude 20
 duik of guise, quha buir to him twa sones, that bayt/*ht*
 deceissit, without successioun, and ane dochtir named
 Marie This quene Marie, first maryed, *ffrances*
 dolphin, *thaireftir* King of *ffrance*, To quhome sche
 buir na successioun, and *efter* his deceis: this quene 25
 Marie, returned to Scotland, and Maryed, henrie
 Stewarte, Duik of Albanie, lord Darnelie, sone to
 Mathew erle of lennox, pronepoy, or eiroy, to the
 fairsaid king henrie the sevint, of that name King of
 Ingland, To quhome sche buir, Charles utherwyse callit 30
 King James the sext of that Name, Kingis of Scottis.
 This wirthy King James *the* sext, he Maryed Anna,
 dochter to *ffrederik* the secund, of that name, king of
 Denmark and Norway; gottin on Sophia, onlie dochter,
 to Vlricus Duik of Meckelburgh, This quene Anna, 35
 buir to King James the sext, King of greit Brytan,
ffrance, and Ireland, defendare of the faith etc. [*twa*

sones, and *dochteris*, hir first sone *wes*]¹ Henrie frederik, prince of Waillis, duik of Rothesay, and Cornewall, erle palatin, of Chester, greit Stewart of Scotland, and erle of carrik etc. Quha deceissit 3ounge without
 5 successioun: The secunde sone, of queene Anna foirsaid wes Charles first, duik of 3ork, and Albany, Erle of Rose etc. Now *presentlie* king, of Greit brytan, ffrance and Ireland defendare of *the fayth* etc. Quha hes maryed

- 10 Now returnand to my purpose Anentis Makbaith Fol. 37.
quhair I left; All thingis succeded unhappalie to Makbaith, *after* the slauchtir of Bancho; for Ilk man began to feir his lyfe, and durst nocht compeir, quhair Makbaith wes, thus followit Ilk day mair displesoure, ffor
 15 quhen this crowell tirran *persauit* Ilk man, haifand him in dreid, he began to feir Ilk man, in *the samyn* maner, and be that meanis he grew maist odyous to his subiectis, ay slayand his nobillis, and all utheris, or ellis confiscatting, thair guidis, and geir, for wane causis, be
 20 Impostis, taxationis, and subsydies, Intollerable vexand, *the* puir commonis, and subiectis, quhais bluid, as it war he sowked out, and pat thame in sic extreme povertie, be his tributis, and warkis sua that, *thai* war all Irked of thair lyves, and wisched rather, to be deid
 25 nor levand: Quhill at last Makduff thayne of fyffe; quhais wyffe, barnis, servandis and houshald *this* cruell tirran Makbaith had maist crowellie slane, and devoired for na offens, nor cause; bot onlie be malyce, hid Invy, and for his awin, particulare proffett; Makduff in rewenge
 30 thairof: and for disappoyntting, of the fals responses of wiches, and *utheris* devillis, Illusionis, and dissaitfull freittis, and Inchantmentis, quhairon Makbaith Lippyⁿnit, and depended, As *the* storie thairanentis beiris at lenth: This crowell tirran maist tragicallie endit and wes slane

¹ The words within square brackets are written on the margin of the leaf, part of which has been cut away in binding the MS.

be *the* said Makduff; And sua all the said Makbaithis devillische consaittis wes overthrawin, and come to ane fatell end, to his greit Ignominie, and schame, The 3eir of god ane thowsand, thriescoir, and ane 3eir. lib. 12. ca. 6. et. c. 7.

5

1061.

King
Malcolm
the thrid.

King Malcolme the thrid, surnamed *canmoir*, the fourescoir and sext, scottis king be assistance of Edwarde King of Ingland, recovered the Kingdome of Scotland, in the aucht 3eir of the regnne of *the* said King Edwarde, and wes crowned At Scone the twentie ffywe day of 10
apryle: The 3eir of god Ane thowsand, thriescoir and ane 3eir's. He wes ane godlie, religius, and a valient king, he rewarded his nobillis, *witht* landis, and offices, and *commanded*, that the landis, and offices, suld be callit eftir thair names, he created mony erles, lordis, 15
baronis, and knychtis, and *thai* that war callit thaynis, war maid erlis. Eftir his coronatioun, he caused mak ane generall *conventioun*, of all his nobillis, At fforfar In the *quhilk*, he maid mony civill and religius lawes, to the honoure of god, and proffett of his realme: And 20
gaif to Makduff erle of ffyif, and his airis, because he wes principall bringare of him within this realme, Thrie privilegis, ffirst that the erle of ffyfe, sall croun the king, The secund the erle of ffyfe, sall have and streik the vangarde, of all battellis, quhen the King, is to pas 25
to ony battell on his Innimies / The thrid, he sall have frie regalitie, to mak officeris, *withtin* his friedome, and privilegis, and to repledge his men gif neid beis, fra the kingis lawes to his regalitie. It wes ordaned als be *the* said counsall That frie baronis, sall caus mak jebettis 30
pittis and wellis, viz. pottis and gallowes, for executioun of all cryminall persones offendand, And amangis mony utheris his lawes, and *constitutionis*, he abrogate all the lawes maid be Makbaith foirsaid. And sua wes ane godlie and virtuous prince: This King Malcolme kaist 35
doun the auld kirk of Durame, and bigget *the* samin fra the ground, with greit magnificens, and placit the prioure

fol. 254.

thairof Named Turgott, quha eftir wes maid bischope of Sanctandrois, and wrait the lyves of St. margarett, and King Malcolme, in vulgare langaige: King Malcolme, be persuasioun and counsall of this Turgott, he biggit
5 ane kirk in Dunfermling, *quhilk* wes ordanit to be the common sepultures, of all kingis of Scotland in tymes cuming: Attour quha list to reid, the lyves of King Malcolme Canmoir, and his blissed quene, Sanct Margaret, this turgot declairis the samin at lenth, and amangis
10 mony warkis *quhilkis* *thai* did It is nocht lyttill to be recommendit, that he abrogate *the* vicked law, maid be king ewin the thrid, and *commandit* half ane merk of money, to be payit to the lord of the ground, in redemptioun of wemennis chaistitie, and honoure; for the first
15 *nicht* *the* superiouris lay with thame, callit 3it the mercheittis of wemen. etc. lib. 12. cap. 11 et. 12. about *the* 3eir of our lord Jm. lxxxix 3eir^s.

1089.

King Edgare, Malcolme the thrid, his sone the
four scoir nynt scottis king, wes ane guid justiciare
20 [began anno domini 1098;] he wrait to the clargie of Ingland certane constitutionis of lawes, and uthir thingis, in the tyme of pascalis the secund, the ane hundreth thriescoir and twa paip: The 3eir of god ane
thowsand fourscoir nynetene 3eir^s. Lyke as King
25 Alexander the first, surnamed ferce, because of his curagius magnanimitie, and fortitude in summare iustice, The thriescoir and ten scottis king, quha regnned in the 3eir of god ane thowsand ane hundreth
and sevin 3eir^s: And caused build the abbay of Scone,
30 beand ane strenth of befoir, quhairin he patt, all the writtin registeris, lawes, and monumentis, of the Kingdome of Scotland in custodie and keiping: And thaireftir In the ane thowsand, ane hundreth, twentie
foure 3eir of god: King David the first, brother to
35 the said King Alexander the first, *the* sones of the said King Malcolm the thrid callit canmoir: The said King David *the* first, beand *the* fourescoir ellevin

Fol. 38

1099.

1107.

1124.

King David the first.

scottis king, and regned twentie nyne zeiris, as ane
 richt holie, vyse, and godlie king: ffor the *quhilk* he
 wes renowned, throw the warld, and *commounlie* callit
 Sanct David: He did greit iustice . . . his coronation,
 and . . . Ilk iudge redres *the* . . . that *the* partie susten . . . 5
 thair wrangus sen . . . and he haifand founded, caused
 build and erect sindrie bischoprikis, abbayis, priories, and
 monasteries, mentionate in the thrid divisoun of this
 rolment [or buik] thairanentis, bot *speciallie* the abbay
 of Jedburgh, haifand the priorie of Restennett, Cell 10
 thairof, *quhilk* Restennett, beand ane castell, or strenth
 of befoir, quhairin he causit put in keiping, sum of the
 originall monumentis, rollis, and registeris of the samin
 kingdome, *quhilkis* he had causit collect and observe
 of befoir: and thairby become sa godlie and famous, 15
 that day and nycht he *continewallie* travellit, to the
 honoure of god, and standing of his weill governed
commoun welth; be exampill of that wirthiest
 emperioure Justiniane: He send and directit his
 exploratouris, leirnest counsalouris, and lawaris, throw 20
 all uther realmes, and cuntries, to reporte to him in
 writt, the formes, and lawes thairroff: and *speciallie*,
 of that emperieur Justinianis, institution of *the* civile
 lawes, quha reportit to him the samin, At new castell
 upoun the Watter of Tyne, in foure buikis or volumes, 25
 quhair of the first chaptoure, and fyift verse, eftir the
 preface, makis mention, and relatioun, of the civile
 law; And the preface begynnand with thir wordis.
 It becummis the kingis majestie, Thairfoir *the* saidis
 foure buikis, or volumes, war callit the buikis of the 30
 maiestie, *quhilkis* ar autentik be relatioun of sindrie
 the actis of *our* scottis kingis parliamentis, maid
 sensyne, quhairunto they ar relative, as the samin
 beiris: Thaireftir followes *the* lawes callit quoniam
 attachiamenta, or lawes of atteichment, or summonis: 35

Lines 4-6, "He—sen," written on right-hand margin of leaf, a
 portion of which has been cut off in binding MS.

Nixt thereftir the forme, and maner of fenſſing or
halding of courtis: Then followes the burrow lawes,
maid be King David, the firſt at *the* ſaid new
caſtell on *the* watter of tyne: Bot heir it is to be
5 remembrit, and remarked, that *the* reſt, of *the* ſaid
King David *the* firſt, his actis, ſtatutes or aſſyſe,
utherwyis callit his hienes actis of parliament, quhairunto
utheris actis of parliamentis thaireftir, ar relatyve, and
ar nocht to be fundin in registeris; beand abſtracted,
10 as is underspecyfyed: Nixt followes the ſtatutis of
gyld brether, maid At bervik upoun tweid, The 3eir
of god ane thowsand, twa hundreth, foureſcoir thrie, 1283.
and foureſcoir fywe¹ 3eiris, In the twentie fyve 3eir 1285.
of the regnne of King Alexander the thrid: The
15 chalmerlane of ſcotland's airis: The ſtatutis of King
Williame, in the fourtie nynt 3eir of his regnne, The
3eir of god ane thowsand, twa hundreth, thrieſcoir 1265.
and fywe 3eiris: The forreſt lawes, maid be the
ſaid King Williame: Togidder with King Alexander,
20 the ſecond, his lawes and ſtatutis, maid At Scone,
The 3eir of god ane thowsand, twa hundreth, fourtene 1214.
3eiris: and of his regnne the threttie fyft 3eir etc.
All thir registeris, ſtatutis lawes, and Monumentis,
abon ſpecyfyed in the ſaidis actis, and ſtatutis, pre-
25 cedand king alexander the thrid his tyme, quha wes
the foureſcoir and fyftene King of Scottis, and ſex
regentis, that governed togidder, eftir him about ſevin
3eiris or thairby, and thaireftir, *quhill* King Robert
the firſt his tyme, under ſpecyfyed: beand all put in
30 Scone, and Reſtennet foirsaid, and ſum in the Caſtell
of Edinburgh; war all takin furth thair of, at the de- Fol. 39.
molisching of the ſamin, the tyme of weir, in Edward
the firſt (his tyme) of that name than King of Ingland,
quhilk wes in the 3eir of god, ane thowsand, twa 1295.
35 hundreth, foureſcoir fyftene 3eiris, or thairby: Thairefter
followes, the actis and ſtatutis of the auld lawes of

¹ "four" in University Library copy.

- scotland: The first statutis of the said King Robert the first, of that name, beand *the* fourescoir and sevintene King of Scottis, in his maiesties parliament, haldin At Scone, in November upon monnonday nixt eftir the feist of Sanctandro the apostoll, the threttent 5
1319. 3eir of his regnne, and 3eir of god ane thowsand, thrie hundreth, nynetene 3eiris: Item the secund statutis, maid be the said King Robert his maiestie, At glasgw
1325. the xiiij day of Junij, The 3eir of god ane thowsand, thrie hundreth, twentie fywe 3eiris: and of his 10
- hienes regnne the nynetene 3eir; Siclyke, the said King Robert *the* first, haifand *convenit* all his nobillis, to ane counsall, At cambuskenneth, and maid new
- fol. 287. tail3e to his sone David, in *this* maner: gif his said sone David, deceissit but [or *withtout*] airis of his body, 15
- the said King Robertis Nepheu or oy, Robert Stewart, gottin on Mariorie bruce, his dochter, sall succed, to the croun: etc and all the nobillis, war sworne, to
1326. defend, this new tail3e: The 3eir of god, ane thowsand, thrie hundreth, twentie and sex 3eiris: lib. 14. cap. 16. 20
- Item thaireftir, followed the essays or statutis, of *the* said King David the secund sone to *the* said King Robert: in his hienes parliament, haldin At Scone, the
1347. sext day of November The 3eir of god ane thowsand, thrie hundreth, fourtie and sevin 3eiris: beand the 25
- fourescoir and aughtene scottis king: Thaireftir followed the courte of the foure burrowes, Statute be *the* said King David the secund, in his hienes parliament,
1348. haldin At perth the sext day of merche The 3eir of god, ane thowsand, thrie hundreth, fourtie and aucht 3eiris/ 30
- Item the parliament haldin, At Scone the secund day of Maij, The 3eir of god, ane thowsand, thrie
1372. hundreth, thriescoir and twelf 3eiris: be *the* said King Robert the secund, the first king of the Stewartis, sone to the foirnewmit Mariorie bruce, the said King 35
- Robert *the* first, his dochter, and half sister be the father syde, to the said King David the secund: This

king Robert *the* secund, and first of the Name of the Stewartis, he wes crowned King of Scottis, as succedand to his said *mother* brother, the twentie sext day of *[Stewart's marche, The 3eir of God ane thowsand, thrie hundreth, 26 Martii]* 1371.
 5 thriescoir ellevin 3eiris : He regnned nynetene 3eiris, and deceissit the sevintene day of apryle, The 3eir of god, ane thowsand, thrie hundreth, *four* scoir, and ten 1390.
 3eiris : beand the ane hundreth Scottis King : Item the parliament, and statutis, maid be King Robert
 10 the thrid, sone to *the* said King Robert *the* secund, and father, to King James the first, haldin At Scone, the twentie ane day of ffebruare, The 3eir of god ane thowsand, and foure hundreth 3eiris : And of his regnne 1400.
the xiiij 3eir.

15 And because the buikis of the lawes, actis and statutis foirsaidis, war takin away as said is : Thairfoir it wes statute, be the said King James the first, in *fol. 47.*
 his majesties thrid parliament, act fyftie foure, the ellevint day of *marche*, The 3eir of god, ane thowsand,
 20 foure hundreth, and twentie fyve 3eir^s : That sex vyse 1425.
 men, and discreit, of Ilk ane of thrie estaittis, *quhilk* knew the lawes best, suld have bene chosin (sen fraude and gyle, aucht to help na man) That suld have sene, and examine, the buikis of the law, That is to say,
 25 Regiam maiestatem, and quoniam attachiamenta, and mended the lawes, that neided mendiment :

And King James the first, beand ane guid iusticiare, Ordaned, to tak the copies, of his actis and statutis, for *proclamatioun*, and fulfilling thairof, and anent the
 30 schawing of chartaris, and infestmentis, that they mycht have bene put in his maiesties registeris, for perpetuall memorie. act 54. As lykprevik his prentted actis beiris, act thriescoir, bot omitted, in the actis Imprentted thaireftir : Lykeas the said King James the first in his
 35 hienes thrid *parliament*, act thriescoir sevin, Intitulate anent the extract, and executioun of the actis, Begynnand Item the kingis maiestie, with consent of the thrie

- estaittis, Ordanit, that all statutis, and ordinances, of that parliament, and the twa parliamentis precedand, be *registrate* in his maiesties registeris, and gevin to the *schireffs*: *Quhilkis* statutis, and Ordinances, Ilk *schireff* suld be haldin to publeis oppynlie, in the cheifes 5 places of his *schirefdome*, and utheris notabill pairtis, and als to gif the copies of the samin, bayth to prelattis, baronis, and burrowes of his bailliarie, upoun the expenssis of the askaris etc. Item in lykemaner, King James the secund, in his *fourtent* parliament, the sext 10
1457. day of *marche* The 3eir of god ane thowsand, foure hundreth, fyftie sevin 3eir's: act thriescoir ten Statute, that all the actis suld be copied, and ressavd fra the clerk register, and *proclamed*, As *the* saidis actis beiris.¹
- Fol. 40. Item thaireftir, King James the thrid, in his hienes 15
1487. ferd parliament, act ane hundreth fyftie, The first day of October, The 3eir of god, ane thowsand, four hundreth foure scoir sevin 3eir's: The hail thrie estaittis, Committed full poware, of the hail parliament, to the persones underwritten: To advise, *commoun*, and reffer 20 agane, to the nixt parliament, or generall counsall, Anent the reducing, of the kingis lawes, Regiam maiestatem, actis statutis, and utheris buikis, to be put in ane volume, and to be authorised, and the rest to be destroyed: viz: for ilk ane of the thrie estaittis, foure 25 persones, and *the* prelattis, war ordaned, to mak the costis of thair clerkis, and the baronis, the expenssis, of thair persones, and the burrowes, of thair *com-*missionaris:

[*annotatio*
Schir John
faustus of
guttemburg
in germanie
knycht wes
first Invent-
are of prent-
ting anno

Heir it is to be noted, and remarked, that befor 30 these tymes, it appeiris that na prentting, wes used nor begun in scotland, nor in na uthir places cum in use: ffor it is alledged that sen the Inventting, of the sciens of prentting began, and wes used, is bot

¹ This paragraph is written after the next one in the Advocates' Library MS. In the University Library MS. they appear in their right order.

ane hundreth, thriescoir and sex¹ 3eiris sence or 166.
thairby; *quhilk* wes about *the* 3eir of god, ane thow- 1458.
sand, foure hundreth, fyftie aucht 3eiris: and the first 1442. He
3eir, of *the* said King James *the* thrid his regne: Sua past to ane
5 that *thair* wes na prenting begun in scotland, quhill *thair* monasterie
the begynning of King James *the* fyftis tyme, that ane *quhair* lev-
callit Chopman, first began to prent in Scotland: and ing soletar-
thaireftir *the* said King James the fyft, of wirthie lie he maid
memorie, darrest grandshir, to oure soverane lord, that *the* first car-
10 now regnes, *quha* wes ane guid iusticiare, and followed rectoris of
furth the erectioun, and institutioun, of the college of letteris on
iustice, to remane and sit togidder, quhair his maiestie leid and trie
suld happin, to be or appoynt, for the tyme, In the *witk* ane
3eir of god, ane thowsand, fywe hundreth, threttie twa *knyff* and
15 3eiris: That ane callit, Thomas davidson, ane north- ane schort
land man borne, on the wattirsyde of die, in scotland space *thair-*
wes admittit his hienes prentare: Lykeas his majestie eftir deused
of all wirthiest memorie, in his sevint or last parliament, Ink and
haldin At Edinburgh the fourtent, day of marche The caused first
20 3eir of god, ane thowsand, fyve hundreth, and fourtie prent in *the*
3eiris: act ane hundreth and sex: Ordanit, his hienes toun of Men-
clerk register, for the tyme, to mak ane autentik extract, tis als
and copie of all the saidis actis, and statutis, sa far as 1532.
concerned, the *commoun* weill, under his subscription moguntia in
25 manuall, to be Imprentted, be quhatsumeuir prentare germanie.
it suld pleis the clerk register to chuisse, and it suld 1460.]
nocht be lesun, to ony uthir prentare, to Imprent *the* [1458 pol.
samin *witk*in this realme, nor without the samin, or virg. lib. 2.
bring hame to be sauld, for the space of sex 3eiris nixt c. 6.]
30 thaireftir: the dait fairsaid of the said act: Provyding
alwyis, that the said prentare, to be chosin be the said
clerk registere, as said is, haif oure said soverane lordis,
speciall licence *thairto*, As *the* said act beiris: At *com-*
mand quhairof, the said Thomas Davidson, the fourtene
35 day of marche, The fairsaid 3eir of god, ane thowsand, 1540.
fyve hundreth, fourtie 3eiris: than chosin his hienes

¹ "twa" in University Library copy.

- prentare: ffirst Imprentted, the actis, and statutis, of
 his maiesties, sevint and last parliament fairsaid allan-
 1541. erlie: the aucht day of *februar* The 3eir of god, ane
 thowsand, fyve hundreth, fourtie ane 3eir's: extractit
 furth, of the buikis of parliament, at command and be 5
 direction of the fairsaid act, be maister James fowlis,
 of colingtoun, than clerk of his maiesties counsall &
 rollis: *Quhilk* act of his hienes King James the fyftis
 parliament fairsaid, tuik na forther effect, quhill thair-
 eftir: That in oure soverane lord, his umquhyle darrest 10
 guidschir, and gudames tymes, of maist wirthiest
 memories: *Commissioun*, and licence, wes grantted, be
 thair hienesses under thair previe, and greit seillis, the
 1566. first day of maij *the* 3eir of god, ane thowsand, fyve
 hundreth, thriescoir sex 3eir's: *Quha* appoyntted, certane 15
 of thair maiesties nobilitie, with umquhill *Schir* James
 balfoure of pettindreich knycht, clerk of thair hienes
 register, and precedent of the college of iustice, of
 this realme, for the tyme, and thaireftir *commendatare*,
 of the priorie of pettinveine, and umquhyle *Maister* 20
 edward henrysone, Doctoure in the lawes, and ane
 of *the* *commissaris* of Edinburgh, with certane utheris
 sic lerned, and vys men of iudgement, to visie and caus
 Imprent, the saidis actis of parliament, quha revised and
 examinated the *samin*, and caused Imprent fra King 25
 James the first his parliament, and first thairof, to hir
 maiestie his hienes darrest gudames, awin last parliament
 haldin the ferd day of Junij, The 3eir of god, ane thow-
 1563. sand fyve hundreth, thriescoir and thrie 3eir's: *Quhilk*
 umquhill Robert lekprevick prenttare, Imprentted, be 30
 command and licence, of his hienes that now regnnes
 umquhill darrest guidschir, and gudames, privilege. As
 the *commissioun*, licence, of Imprentting and preface, of
 the saidis actis; *quhilkis* I have inserte, and registrate
 heireftir, in this rolment, to thair greit praise, and 35
commendatioun, And the tennouris, of the *samin* pro-
 portis; And the saidis actis Imprentted be *the* said

Lekprevick, war coft fra him in albis, unbund be
 umquhill Maister James Makgill, of Nethir rankeloure,
 clerke of register for the tyme, and for the maist pairt
 war destroyed; Sua that within schorte space *thairefter*,
 5 few or nane, could be fundin gettabill, to by and sell
 thairof, be the liegis, for sic caussis, as moved the said
 clerk register for the tyme: Quhill lang thaireftir That
 it plesed Oure maist gracious, umquhyle soverane lord,
 and king, his clement, sacreit maiestie, that lait
 10 deceissed, quha restis with God amangis, his guid
 blissed spreittis, and holie angellis, King James the
 sext his maiestie *that* now regnnes, umquhill darrest
 father, of all maist wirthiest memorie, with the advise
 and consent of his nobilitie, and estaittis in his hienes
 15 fyft parliament, haldin At Edinburg^{ht}, the twentie fyft
 day of Julij, The 3eir of god, ane thowsand, fywe 1578.
 hundreth, thriescoir and aughtene 3eiris: And in his
 maiesties twelt parliament, haldin the fyft day off Junij,
 The 3eir of god, ane thowsand, fywe hundreth, four scoir, 1592.
 20 and twelf 3eiris: mentionate and expressed in the
 omitted actis thairof nocht Imprentted: To grant com-
 mission, anent the examinatioun, and Imprentting, of
the lawes of *this* realme: At command, and be virtew
 quhairof umquhill Schir Johnne Skene, of currehill
 25 knycht, that leirned famouse renowmed, clerk of his
 maiesties register, and rollis, ane of his hienes maist
 honourabill, previe counsall, of this realme, and King- Fol. 42.
 dome of Scotland, visied, collected, and caused prent
 in *marche*, The 3eir of god, ane thowsand, fywe 1597.
 30 hundreth, fourescoir and sevintene 3eiris: and set furth
 his hienes, and his predicessouris haill actis of parlia-
 mentis fra King James the first, his tyme, and his first
 parliament, To his maiesties King James the sext, awin
 fyftene parliament, *quhilk* wes the nynetene day of
 35 December, The 3eir of god, ane thowsand, fywe 1597.
 hundreth, fourescoir and sevintene 3eiris: foirsaid:
 with ane tabill, of the coronologie, of the Kingis of

108. Scotland, to his hienes awin tyme, beand than the ane
hundreth and aucht king of this kingdome: Togidder
with the secund editioun, de significatione verborum,
1599. *quhilk* wes Imprentted, The 3eir of god, ane thowsand,
fywe hundreth, foure score and nynetene 3eiris: Lyke 5
as alsua thaireftir the said clerk register, Caused Imprent,
1611. In the 3eir of god, ane thowsand, sex hundreth, ellevin
3eiris, and sett furth be *commission* and licence foirsaid,
The actis of his hienes sextene, xvij, aughtene, nynetene,
and twentie parliamentis, As lykwyis the said clerk 10
register, Collected, caused be Imprentted, and sett furth,
1609. In the 3eir of god, ane thowsand, sex hundreth, &
nyne 3eiris: be *commissioun* and licence foirsaid, The
haill buikis of the maiestie; and utheris abonemention-
ate, beand the auld lawes of Scotland, *quhilkis* he 15
interpret, and exponed furth of latyne in Scottis
languaige, and caused to be Imprentted, of baith sortis,
and hes obtenit, ane speciall licence in his favouris, for
Imprentting of the samin, As is *contened*, in the omitted
actis, nocht Imprentted, of his maiesties nynetent *parlia-* 20
1607. *ment*, the ellevint day of august, The 3eir of god, ane
thowsand, sex hundreth and sevin 3eiris: To his greit
prais, and perpetuall *commendatioun* heireftir: And
the said clerk of register, perseverand in his dewitiesfull
3eall, To his *umquhill* maiesties kinglie honour, and luif 25
to his *commoun* wealth, and native cuntrie: Caused me,
the writtare, and authoure heirof, In the 3eiris of god,
1609. ane thowsand, sex hundreth nyne, sex hundreth ten,
1610. sex hundreth ellevin, sex hundreth twelf, and sex
1611. hundreth and threttent 3eiris: writt be his directioun 30
1612. the formes of deductioun of all processis, in civile
1613. actionis *presentlie* used, and observed, befor the lordis
of his maiesties *counsall*, and sessioun, and utheris
iudges, within his hienes Kingdome of Scotland,
Togidder with the auld formes, and processis, of falsing 35
of domes, The proces of the breif of perambulation, The
proces of the breve of division, The proces betuix

the lord and the tennent, The proces of schawing of
halding, and the proces of purpresture, Collected, and
extracted, furth of the registeris, lawes statutis and
actis, of the Kingdome of Scotland, and statutis of the
5 saidis lordis of counsall, [and sessioun] contened in
thair buikis, and registeris, callit the sederunt buikis,
quhairin the saidis lordis actis, and statutis, ar writtin
and inserte, and ar extracted furth thair of, be the said
clerk register, begun in *marche*, The 3eir of god, ane
10 thowsand, sex hundreth and nyne 3eir is foirsaid: and
revised and corrected be him, and me the writtare
thair of: thaireftir in December, and Januare, The 3eir
of god, ane thowsand, sex hundreth and twelf 3eir is
foirsaid: As *the* originall warrand beiris, beand notted,
15 and writtin be *the* said clerk registeris, awin hand wreit,
on the mergywnis thair of Perused, and conferred to-
gidder, be him, and me *the* writtar foirsaid Aggreand
with the saidis registeris, statutes, and civile lawes:
Lykeas for my warrand heir anentis, and greittare fayth,
20 and credeit, to be gevin, to this my wark and edition,
I have the said clerk registeris, testymoniale seillit and
subscriyvit, with his hand, of my being in his *company*,
mony 3eir is bygane, bot *speciallie* the last foure 3eir is
precedand, the 3eir of god, ane thowsand, sex hundreth,
25 and threttene 3eir is foirsaid: Exercised in writting, of Fol. 43.
the maist ancient, lawes and statutis, of this realme,
collected furth, of the autentikest registeris, and auldest
rollis extant, of the Kingdome of Scotland, sene, red,
[conferred] and perused as said is [As the said testy-
30 moniall at lenth beiris]: To the *quhilk*, is added be
me the writtar and authoure foirsaid: of my awin col-
lecting writtin sensyne: quhairin I have bene, *contine-*
wallie occupyit, and exercised thir sevintene 3eir is, with
the mair bygane, in collecting of the secund pairt, of
35 the devisioun of this wark, Anentis *ecclesiasticall* materis,
and processis, deducit befoir Archebischopis, bischopis,
thair officiallis, or *commissariattis*, and thair iurisdic-

tionis, With the thrid divisioun, anentis the foundataris, of all religious places, within *this* kingdome, and boundis thair of, for the tyme: Togidder with, the chronologie, of the scottis kingis, and princes, foundataris, and erectaris thair of, frome the begynning: ffortlie the 5 admirall and sea lawes: ffyftlie anentis the liberties, and privileges, of burrowes, actis, and confirmationis *thair*anentis: Item anentis, the chusing of Magistrattis, and officemen within burrowis: Item siclyke anentis the commoun guid of burrowes; and these conforme to 10 the actis of parliament and statutis of the Kingdome of Scotland: Sextlie the *computatioun* of the tymes, of all bischopis, or paipis of rome, Christiane emperiouris, and scottis kingis, in thair tymes, and severall regnnes, fra Sanct Petir the blissed apostoll, his tyme, [to Paulus 15 quintus antea Camillus last paip or bischope of Rome] and Gregorie the fyftent *present* paip, or bischope of rome, unto his *majesties* awin tyme, that lait deceissed Togidder with, certan *specciall* remembrances, and annottationis, direct be me the writtar as authoure, 20 Contenand the causis of my writting, and directing thair of, to *the* godlie and christiane reidar, Tuiching, Ilk pairt of the samin, Dedicate be me, to his maist sacreit maiestie, that now regnneth, and directed be his hienes, *command* and licence, to be Imprinted, and 25 quhairanentis I have takin greit panes & travellis, that *the* samin and memorie thair of, decay and perische nocht, beand sa wirthie, and remembrabill a wark, of the monumentis, and antiquities abonewrittin: *quhill* as his maiestie hes considdered, and graciouslie acceptit 30 of me, his obedient leage and subiect: Sua sall I indevoir myself, heireftir, according to my bundin dewitie, to performe, and accomplis (be goddis grace gif utherwayis, I be nocht prevented be death, at his guid will and plessour) ane [bettir and mair] prolix 35 wark, Anentis the fundamentall, monumentis, and antiquities, of this his hienes native realme and King-

dome of Scotland (the *registeris* thair of, beand maid patent to me) To the glorie of god, his maiesties maist sacreit kingly honoure, and *commounwealth* of this his hienes native cuntrie: And because the deductioun¹
 5 of these monumentis, anentis this wark consistis maist in the *computatioun*, of the tymes and daittis of the samyn: I have thairfoir sett down, all the daittis of any notabill monument, at lenth, for the *commonnis*, and sic as knowes nocht figouris, and at the end
 10 thair of, I have put *the* daittis be sepharis, for the suirare bettir memorie and knowlege bayth of the lerned and unlearned: Lyke as in the deductioun, and declaratioun, of these processis and materis: I have nocht bene copious in langaige be far drevin uncouth
 15 evill placed termes, and Multiplicatioun of wordis, be paraphrases, and *circumloquition* of speich, Silogismes and refutatioun of argumentis, be parrablis, or *compari-*
sonis, Nor have I adhered to auld proverbis, or bywordis, Fol. 44.
 fair, flatterring, fenzeit, and allurand² fictionis, uttered be
 20 archadicien maid up counterfait and fraising langaige: Nor have I used Minzearde nor effeminate, tantting Invective, nor skornefull wordis, vane saterik, or lowse, wowsting and wantting speiches; Nor have I over favorable or luifinglie loved, or prased; or zit have I over dis-
 25 danefullie, [disprased] detracted, laked, or outbraided in ony wayis: Nather zit have I prophaned, nor abused, the halie and sacreit scriptouris, be unlearned, and unskilfull applicationis, as sum of *the* vulgar and raschest, railing simpilest *commounis* dois, eftir *thair* awin vane fantas-
 30 ticall fantasies with[out] ony authoritie, schame, understanding or knowlege: Bot be the contrare I have writtin reverendlie and sparinglie usand my awin maternall scottis langaige or mother tounge (as we call it) in als pithie schorte, and compendious termes, and
 35 clene dictionare, according to my simpill iudgment

¹ "declaratioun" in University Library copy.

² "counterfuit" in University Library copy.

and knowlege, for oppynning up, and declaratioun of
 the treuth of my intensioun, of the mater or purpois in
 hand, and making it sensabill to the unlerned and
 vulgare sortis understanding: Sua that be the [reiding]
 sycht and considerratioun heirof, all godlie redaris, of 5
 mair bettir pregnant Ingynis, and guid spreittis, may
 fram and conforme, thair writtingis speiches, lyves and
 maneris according heirto: As oure maist gracious
 soverane lord, and king his maiesties umqu^hill darrest
 father, of all wirthyest memorie, in his lerned excellent 10
 fatherlie counsallis, set furth be his hienes, as authoure
 himself, in goldin sentences, and nocht onlie caused to
 be Imprinted, bot put in practese, be his maiesties self,
 in his maist godlie lyfe and halie conversatioun, (to the
 conforte of ws all) as paterne of patronis, hes teiched 15
 and instructed ws, And sua quhat I have done
 heiranentis, desyris the godlie and christiane reidaris, to
 tak in guid pairt Seing I have, spared na travellis, nor
 panes that the memorie, of thir monumentis decay nor
 pereis nocht, bot be preserved in remembrance of his 20
 maiestie and his maist wirthie and godlie foirbearis in
 exampill to utheris heireftir to follow and continew in
 the lyke. Sua I rest.

3oure assured freind

Is best.

25

[My name iff 3e wald knaw, and quhat I am?
 The last twa wordis contenis in annagram]

[Folio 45 blank.]

I have writtin and inserte heirin, As followes, the Fol. 46.
 tennouris, of the *Commissioun*, and licence, grantted be
 his maiesties, *umquhile* darrest guid*schir*, and gudame,
 of all wirthest memorie, with the preface of Doctoure
 5 Henrysone following, Anent the viseing, Collecting,¹ and
 Imprentting, of *the* lawes, and actis, of parliament, as I
 have schawin and declaired, in my praface befor writtin :
 That the commendatioun of thair perpetuall praise
 thair of, pereische nor [decay] nocht : Sua that be thair
 10 godlie zeall, utheris, may follow thair guid exampill
 heirefter.

COMMISSIOUN

The copie or dowbill, of oure soverane ladyis,
 his maiestis *umquhill* darrest gudames, *Com-*
 15 mission for viseing, Collecting, and Im-
 prentting, of the lawes, and actis of *parlia-*
 ment, of the Kingdome of Scotland.

Marie be the grace of god, Quene of Scottis. To all
 oure liegis and subiectis, quhais knowlege thir *present*
 20 *letteres* sall cum, Greting : Wit ze ws, moved of greit
 zeall of iustice, to retene the haill subiectis *withtin* oure
 realme and dominionis in guid ordoure and obedience,
 towardis ws, and Mutuall societie amangis thame selffis,
 according to the guid lawes, constitutionis, ordinances
 25 and actis, maid be ws, and oure maist nobill progeni-
 touris, of guid memorie : Considdering that be *the* Mis-
 knowlaige and ignorance of the samin lawes, all Mis-
 ordoure Inobedience, tumult, and trubill of the *commoun*
 weall procedis; And because sindrie lawes, *constitutionis*,
 30 and ordinances, hes bene maid be diuers *our* predices-

¹ "correcting" in University Library copy.

souris, that certane lerned vise and expert men, *quhilkis*
 best knawes the lawes suld be chosin, to see and exam-
 inate, the buikis of the law, set thame furth to the know-
 lege of oure subiectis: Thairfoir we for the weall and
 instructionis of *our* saidis liegis, in the lawes of this *our* 5
 realme, according to *our* zeall of iustice, and intentioun
 of tymes had of befor: with advise of the lordis of oure
 secreit counsall To mak constitute and ordane be *thir*
 presentis, Oure richt traist cousingis, and counsalouris,
 George erle of huntlie, lord gordoun and badzenoch, 10
our chancellare Archibald erle of Ergyle lord campbell
 and lorne James erle of Murray lord abirnethy Williame
 erle of Merschell lord *Keyth* Johnne erle of Mar lord
 erskin, James erle bothwell lord haillis Chrechtoun
 and liddisdaill, Johne erle of Athoill lord balvanie 15
 Reverend fatheris in god Johnne bischope of Rose
 commendatare of oure abbay of Lundoris Alexander
 bischope of galloway commendatare of inchaffray,
 Adame bischope of Orknay Schir Richarde Maitland of
 Lethintoun Knycht Keipare of oure previe seill *Schir* 20
 James balfoure of pettindreich Knycht clerk of *our*
 register, *Schir* Johnne bellenden of auchnoule knycht
 clerk of oure iusticiarie *Maister* Williame baillie lord
 provand, *Maister* Johnne spens of Condry and *Maister*
 Robert creichtoun of Eliokey oure advocattis *Maister* 25
 David Chalmer chancellare of rose, and *Maister* Edward
 henrysone doctoure in the lawes oure *commissionaris*
 in that pairt Gevand granttand and *committand* to
 thame or ony sex of thame *coniunctlie* (as *persones* of
quhais sciens and experience of *the* lawes of *this* oure 30
 realme we *speciallie* dois *confyde* and is assured of thair
 industrie, and trew diligens in executing & performe-
 ing of oure *command* and charges) full poware and
 auctoritie expres *command* and charge in *our* name and
 behalf to visie sicht and correct the lawes of *this* oure 35
 realme maid be ws and oure maist nobill progenitouris
 be the advise of the thrie estaittis in parliament haldin

Fol. 47.

Folio 40.
 Anno 1425.
 Jamis 1.
 James 3.
 Graunts in
 like manner.

be thame / Begynnand at the buikis of the law called
 Regiam Maiestatem / Quoniam attachiamenta, and sua
 consequentlie following be progres of tyme unto the
 dait of this oure commissioun, Sua that na *utheris* bot *the*
 5 saidis lawes sichtit, mendit, and correctit, be *thame* oure
 saidis traist counsalouris and *commissionaris*, or ony sex
 of thame *coniunctlie* salbe oure *previlege* be Imprinted
 or have faith place or *auctoritie* to be allegit or rehersit
 befor ony iuges and iustices quhatsumeir in jugement
 10 and without And generallie all and sindrie uthir thingis
 to do exerce and use, that in the *premissis* or anent *the*
 same salbe necessar or ony maner of way opertun
 fferme & stabill haldin and for to hald, all and quhat-
 sumevir oure saidis counsalouris, and *commissionaris* in
 15 that pairt or ony sex of thame *coniunctlie* in the *pre-*
missis richtiouslie leidis to be done. Attoure we promit
 to cause our said *commissioun*, with all and quhatsum-
 evir thingis oure saidis counsalouris and *commissionaris*
 be virtew heiroy sal happin to do, performe accomplishe
 20 and determinate be ratiffed approved and perpetuallie
 confermed be the advise of oure thrie estaittis in oure
 parliament nixt: In witnes of *the quhilk* thing we have
 caused oure greit seill to be put to *thir presentis* At Edin-
 burgh the first day of Maij The 3eir of god ane thowsand
 25 fywe hundreth thriescoir sex 3eiris, And of our regnne
 the 24 3eir.

[primo
 Maij]
 1566.

The Copie of the king and quenis graces
 privileg grantted for the Imprintting of the
 Lawes and actis of parliament

30 Henrie and Marie be the grace of god King and
 Quene of Scottis To all and sindrie oure liegis and
 subiectis quhome it effeiris. quhais knowlege thir oure
 letteres sall cum. Greting. Wit 3e ws to have gevin and

granted, and be thir oure *letteres* gevis and granttis
 to oure weilbelovit Clerk Edward henrysone doctoure
 in the lawes and his assignais allanerlie full poware and
 licence to Imprint cause Imprint and sell the lawes and
 actis of *parliament* of oure realme. That is to say the 5
 buikis of *the* law called Regiam Maiestatem, and the
 remanent auld lawes and actis of parliament conse-
 quentlie maid be progrese of tyme unto the dait of thir
presentis, visited sighted and corrected be the lordis *com-*
missionaris speciallie depute to the said visiting sighting 10
 and correcting *thair*of and that for the space of Ten 3eiris
 nixtocum. And discharges and revoikis all uthir pre-
 Fol. 48. privileges and licences granted of befor to any utheris for
 Imprinting of oure saidis lawis and actis. Quhair-
 foir we charge straitlie and *commandis* 3ou all and 15
 sindrie oure liegis and subiectis *foirsaidis* That nane of
 3ow tak upoun hand to Imprint or cause Imprint the
 saidis lawes and actis in this oure realme or outwitht the
 samin, Or to sell the same within this *our* realme under
 the pane of escheitting of *the* saidis buikis to oure said 20
 weilbelovit clerk, And als under *the* pane of paying to
 him of the sowme of Twa hundreth pundis money of
 oure realme, als oft as *this* oure privilege and licence
 beis controvened and brokin be 3ow or ony of 3ow
 during *the* said space of Ten 3eiris. Gevin under *our* 25
previe seill. At Edinburgh the first day of Junij The 3eir of
 god ane thowsand fywe hundreth thriescoir sex 3eiris.
 And of oure regnne *the* 24 3eir.

[primo
 Junij]
 1566.

Doctoure Henrysonis preface To the [godlie]
 redare. *Quhilk* concurris and assistis *wit*h the 30
 proheme of me *the* authour befor writtin.

It is moist certane that na thing is sa earnestlie to be
 socht, and straitlie keiped, as the knowlege of the lawis

and thair *auctoritie*, because the lawes richtlie dis-
 pones, and ordouris to *the* best baith godlie and manlie
 effairis, and banischeth *thair*out all iniquitie, They
 ar the gift of god, the statutis and decreittis of vyse
 5 men, the amending and richting of foirthocht and
 suddant faultis, the *commoun* promes, band and obliga-
 tioun of the realme and of Ilk member thair of to uthir,
 eftir the *quhilk* appertenis all the said memberis, to leid
 thair lyfe, gif *thai* wald nocht onlie leif, bot als, manerlie,
 10 weill and godlie leif, And lyke as Ilk ane aucht and
 suld seik the understanding of the lawes, *that* they may
 cast thame with all *thair* intent to observe and keip the
 samin, Richt sua it is the office of the soverane poware,
 and of the magistrattis and officeris constitute under the
 15 samin, to caus publische and mak patent the lawes to
 the effect foirsaid, as we sie *the* Isralitis, Athenianis,
 Romannis, and uthir peopill and Impyris lauchfullie
 rewled and thairby lang lestand, and continewand in
 prosperitie, had *thair* statutis and ordinances ingraved
 20 or writtin in tabellis, and fixed on the maist publict and
 patent places, or inrolled buiked and solemnedlie red
 to all the peopill, And als all weill maid constitutionis,
 contenis in the self ane provisioun that it be *proclamed*
 and publisched, Misknawlege is ane maner and kynd
 25 of excusatioun to mony men of thair fault. Albeit the
 law sayis thair is nor suld be na excusatioun to the man
 pretendand Ignorance of *the* law, Quhairfoir? Because
 the law is understand to be notyfyed and publisched
 to all men, and they suld seik to the knowlege thair of.
 30 Thairfoiroure soverane lady seing the lawes and actis
 of hir maist nobill progenitouris to be for the maist pairt
 unknowin, but be the judges, and men of law & 3it *the*
 samin to be throuch Ignorance of the Copistis confused
 and full of errouris, hes maist *commendable* and *con-*
 35 veinentlie to hir royall estait and majestie and maist Fol. 49.
 graciouslie for the weill of hir subiectis gevin *com-*
 missioun to certane nobill [men] and lerned lordis hir

traist counsalouris, to sicht consider correct and caus
 publeis in prent, the hail body of the lawes of *this* hir
 realme In the undertaking of the quhilk charge and
 wark, *the* saidis lordis, thocht it maist expedient for the
present to begin at *the* mending and furthsetting of the 5
 actis of parliament haldin be King James *the* first,
 secund, thrid, ferd, fyft, and be hir maiesties poware
 haifand and hir self, and thaireftir in all guidlie diligence
 to reik and extend thair cuir to the emendatioun &
 publicatioun of the precedand and thair maist ancient 10
 lawes, The *quhilkis* as they ar mair difficill to be decernit
 on, Sua they requyre largare tyme to thair dew correc-
 tioun. And albeit nane of *the* saidis lordis commis-
 sionaris can be prased aneuch, and [proportionallie] to
 thair wirthynes for the travell and diligens takin be 15
 thame in this *present* editioun and outset, 3it in speciall
 with all mennis favouris twa of *the* saidis lordis ar to
 be remembred [and commended] They ar to say ane
 reverend father in god Johnne bischope of rose lord
 of *our* soveranes secret counsall and of hir college of 20
 iustice for his suggestioun to oure soverane of this
 notabill purpose ernistfull performing of the said com-
 missioun and cuir in *convening* of my lordis commis-
 sionaris his colligis and liberalitie in furthsetting of this
 Imprentting, and *Schir* James balfoure of pettindreich 25
 Knycht clerk of the register etc. for senceir æfauld and
 glaid concurrance to perfyte *this* wark and exhibitoun
 of the originallis out of the register and making of thame
 patent at all tymes on nawyis regardeand, his awin
 particulare, outhir proffett or gloir bot onlie the *commoun* 30
 weall of this realme / It restis to exhorte all the rest of
 oure soverane ladyis liegis to diligent[lie] mark and con-
 sider thair awin dewitie and office expressed in this
 law buik, and to exprese and manefest *the* samin be
 leiding of thair lyfe conforme thairto in worde and deid 35
 Sercheing heirout doctrine of treuth, and obediens to
 the princes, thair maiestrattis and officeris, of iustice, Of

honest lyfe, Of abstinence fra Injuring and hurting ane
 a uthir, Of geving of Ilk persone his awin, Of lauchfull
 conquesing, keiping and annalying of landis gud's and
 geir, and als to thank oure soverane of hir direction and
 5 commissioun, and the lordis for thair travell takin be
 thame thairin, ffinallie to accept and Imbrace this haill
 laboure with benevolent and gentill hart, that occasioun
 be gevin heireftir, that *the* rest of the auld lawes of
 Scotland be brocht to licht, and put in the liegis handis
 10 to be commounlie red and understand with greit fruit and
 plesoure to the honoure of god trew obedience to oure
 soveranes, and to *the* weill particulare to Ilk persone, and
 commoun of the haill realme

Sic subscribitur.

15

ED. HENRYSONE.

[Folio 50 blank.]

Ane schort forme of proces presentlie used and observed Fol. 51.
 befor the lordis of his maiesties counsall and sessioun,
 and all utheris judges in all civile causis within his
 hienes realme, and Kingdome of Scotland, collected
 20 furth of the registeris thair of, Conferred and Conformed
 thairwith, according to the Civile Law etc.

Of judges there office, and divisioun of actionis.
 Titulus *primus* [contenand sevin chapteris.]

The personis judicatorie Cap. 1.

25 In all actionis and pleyis, Thrie personis ar necessare.

Judex the judge, actor the perseware, Reus the defendare. lib. 2. c. 2. c. forus. 10. de verb. signif. extr.

The judges, office, observationis therin, and aith thereanent. C. 2.

101. 75. All judges aucht to respect, and observe faythfullie, 5
foure pairtis, first to moderate and restrane langsum
repetitionis, and Impertinent speiches quhilkis I call
multiplicatioun of wordis, be tedyous harrangis, pro-
tract of procese, be advocattis and clerkis of courte.
Secundlie to compendiouslie recapitulate the materiall 10
poynttis of the purpose contraverted, Thridlie to reid
and consider diligently, the libell, summonis, Clame or
petitioun with the formall deductioun of the procese,
wreittis, evidentis, or probatioun led thereupoun
ffourthlie and last To pronunce there interloquoutoure 15
judiciallie and concientiouslie with thair definite sen-
tence thairanent, according to the mereittis of the cause,
secundum allegata, et probata, Without any maner of
bud, brybe, cultured fraude, feid favoure, or respect of
personis : As they will ansueir to God etc. and sould be 20
Iik 3eir solemnatie sworne to do the samin. Vid. stat.
Willelmi c. 25. Stat. Rob. 1. c. 21 et 28. Jac. 1. parl.
2. c. 45. Jac. 1. parl. 6. c. 83. Jac. 5. parl. 7. c. 104
etc. practised befor the lordis. Anent the aith of iudges
The quenis advocate, contrar Johnne Udney. 15. Decembris 25
Anno domini 1561 3eir.

The iudge hes diverse and sindrie jurisdictionis.
Cap. 3.

Because sum actionis ar Criminall, quhilkis concernis
lyfe and lym, or tynsall of athir of theme, Or tuiches sic 30
crymes, as may infer confiscatioun of the gudis per-
tenyng to the trespassoure, or penaltie to be applyed to
the Kingis use. lib. 1. c. 1. et. 2.

Criminall actionis. Cap. 4.

Quhilkis criminall actionis suld be decyded and deter-
 mined befor the justiciare generall and his deputtis as
 onlie judges in Criminall causis be inquisitioun of ane
 5 assyse or inqueist, called a juri of certane Loyall and guid Fol. 52.
 men, quha best knawes the suith and veritie. lib. 1. c. 1.
 lib. 4. c. 55. Stat. Alex. 1. c. 2.

Actionis ecclesiæsticall C. 5.

Sum actionis ar ecclesiesticall, and in the tyme of
 10 papistrie, and of the usurped authoritie of *the* paip
 pertened to the jurisdictioun of kirkmen in Curia
 Christianitatis, sic as of testamentis, legacies, mariages,
 divorcementis, and civile actionis of det, and otheris
quhilkis ar effected with ane aith, or with ane promese
 15 to be provin be ane aith. lib. 1. c. 2. lib. 2. c. 38. vers
 6. c. 50. et c. 59. lib. 3. c. 7.

Actionis, civile, and prophane C. 6.

Otherwyse all civile actionis, that hes nocht fidei vel
 juramenti interpositionem, ar civile, and prophane, and
 20 therefor appertenis nocht to *the* ecclesiæsticall jurisdic-
 tioun. lib. 3. c. 7. vers. 3.

Actionis Civile. Cap. 7.

Last sum actionis ar Civile. Concernyng landis, dettis,
 and pecuniall penalties, to be applyed to the use of the
 25 partie haifand interese; *quhilkis* actionis pertenis to the
 schireffis, Erlis, lordis, baronis, and to provestis and
 baillies of burrowes. lib. 1. c. 1. vers 2. c. 3. c. 4. c. 5.

And the lordis of Counsale, and session, are com-
 petent and supreme judges be the first erection of the
 30 College of iustice, and privilegis granted unto theme be
 King James the fyft. The 3eir of God ane thowsand 1532.
 fywe hundreth threttie twa 3eiris Confermed be the

1534.

[Nota *the*
principal
and first
erectioun
heir is to be
insert and
registrat de
verbo.]

1537.

paipis in Clement the sevint his tyme the first institu-
tioun, and thereftir ratiffied be his successoure Paulus
the thrid his tyme The 3eir of god ane thowsand fywe
hundreth threttie and ffoure 3eiris. Quhilk wes thair-
eftir ratiffeid and confermed in parliament be the said 5
King James the fyft, the sevintene day of Maij The
3eir of god ane thousand fywe hundreth threttie sevin
3eiris, And speciallie gevand the saidis lordis of counsall
and sessioun poware, to mak constitutionis, and ordin-
ances, for expeditioun and executioun of iustice. *Quhilkis* 10
privilegis and liberties ar siclyke ratiffied and confermed
in diverse utheris *parliamentis* sensyne etc. and speciallie
be Jac. 5. parl. 5. c. 36. et. c. 43. et. 68. Jac. 5. parl.
7. c. 93. Jac. 6. parl. 8. c. 139. and in sindrie thair
maiesties *parliamentis* thaireftir. Off *the* quhilk first 15
erectioun and institutioun of the foirsaid college of
justice the tennoure heireftir followes.

The first erectioun, and institutioun, of the
college of justice, within the Kingdome of
Scotland, faithfullie translated, out of lating 20
or Romane tung Into Vulgare Scottis langaige,
Quhilk wes nevir Imprentted publisched nor
devulgatt of befor : etc.

To all and sindrie Moist Reverend fatheris in Christ,
and lordis be Godis grace, and apostolict Salutatioun ; 25
Fol. 53. To all metropolitannis, lykewyis To all Cathedrale Kirkis,
boith seculare and regall, of the Kingdome of Scotland ;
Archebischopis and primattis, borne legattis and
bischopis, To thame and everie ane of thair vicaris, and
officiallis generall subdeligate to thame *commissariatis* 30
now and for all tyme to cum, As also to everie ordoure
of Monasteries, abbattis, and priouris, quidder they be
perpetuall or temporall administratouris and *commend-*

ataris for the *present*, and for the tyme to cum, And to
 all prelattis of *the* Kingdom of Scotland, albeit they be
 exemit, And to all *quhatsumeuir* sall have interes, or can
 have interes, quhome the *present* underwrittin bissines
 5 dois tuich, or can in onywyse appertene in tymes cuming
coniunctlie and severallie be *quhatsumeuir* tytillis they
 salbe named, or any preferred dignitie they salbe pre-
 moved unto: Jerholme de Clientis, be the samin grace
 of god, bischope of Vigorme generall auditoure, judge
 10 and executare of *the* caussis of the apostolict Chalmer,
 and courte for the present, Togidder with certane of oure
 colligis in that pairt, with *conditioun* that gif thrie, or
 twa, or ane be themeselfis or utheris depute to that
 effect be the apostolict seat, than the said seat sall
 15 fermelie obey the *commanded letteres* of oure moist
 holie father in Christ and lord: Paule be the devyne
 providence paip, haifand *the* leidin bull or seill with
 silkin threid, of reid and 3allow cullouris, eftir the fassoun
 of the romane courte appended thairto: The bull I say
 20 heill nocht brokin, torne, nor cancellate, nathir in ony
 pairt suspect, bot laikand all fault and suspitioun
presentit unto ws, as at the first sicht did appeir, ffor the
 pairt and interese of the moist mychtie and illustrius
 prince and lord James King of Scottis principallie *nemmit*
 25 in these appostolict *letteres* befoir the notare publict &
 writtare of the rollis of the Romane Chalmer, and
 witnessis underwrittin. Be it knawin we have ressavet
 the samyn with sic reverence, as *becummis* us, The
 tennoure quhairof followes: Paule bischope, *servand* of
 30 the *servandis* of God in perpetuall memorie of the mater
 underwrittin, ffor the notabill mereittis of James King of
 Scottis oure maist deir sone in Christ, quha according to
the custome of his maist famous predicessouris Kingis of
 Scotland is knawin to be gloriis in the eis of the
 35 apostolict seat, do nocht think it unwirthie done, to
 3eild to the requeistis of iustice to his subiectis, for thair
 guid government, and quiet estait [*quhilk* we do imbrace

maist favourable with godis blissing]¹ *quhilk* we also
 wische that it may Inviolable abyde Do command with
 apostolick soliditie, and with moist willing favoure do
 confirme quhen as laitlie the said King James be
 Clement paip *our* predicessoure, had desyred and 5
 earnestlie intreitted That his Kingdome of Scotland in
 tranquillitie and peace *mycht* evir remane; and that he
mycht Ministratie iustice, with equale ballance to his
 liegis: The said Clement oure predicessoure, The said
 King James instantlie, earnestlie and humelie, desyring 10
 than and in all tymes cuming, That everie one metro-
 politannis, and uthir Kathedrall Kirkis, seculare and
 regall of the said Kingdome: Archebischopis, primattis
 borne legattis, and everie ordouris of monasteries
 abbattis & priouris, with conventis of pryories, or 15
 ecclesiasticall closteris, quhidder the samin be perpetuall
 or temporall, administratouris or commendatouris
 thairof, for the present tyme, and all of the said King-
 dome of Scotland quha ar exemit, That *the* tent of the
 fruitis, rentis, and revenowes, of the saidis kirkis, 20
 monasteries, and priories for the institutioun and manti-
 nance of ane college of guid and lerned men; Of the
quhilkis the ane half in dignitie ecclesiasticall suld be
 appoynted be *the* said King James and his successouris
 to be Chosin be him, quha of causis Civile and prophane, 25
 of *the* said kingdome, suld cognosce, heir, declair and in
 dew tyme determene, and Ministratie justice in the said
 kingdome forevir, to be collected everie 3eir reallie and
 with effect, To the sowme of Ten thowsand ducattis of
 gold out of the chalmer, according to the quantitie of 30
 the fruitis renentis emolumentis of ecclesiasticall monas-
 teries to be distribute and collected that *the* foirsaidis
 suld pay and suld be haldin to pay Under the said
 Clementis letteris gevin under the leidin bull and seill
 foirsaid than statute and ordanit: As it is mair fullilie 35

¹ The words within square brackets are written on the margin of the leaf, part of which has been cut away in binding the MS.

contenit in the said Clementis *letteres*: And seing *the*
 said King James hes exponed to ws, quha at the plesoure
 of god hes succedit to oure said predicessoure, and be
 godis favourabill *mercie* ar promoted to the heich degrie
 5 of that apostolict seat; That *the* said college of iustice
 salbe constitute of guid and lerned men; ane ecclesiasti- ^{dispenst}
 call prelat beand president thair of, and fourtene uthir ^{with}
 persones, quhair of the ane half ar of ecclesiasticall ^{fol. 63.}
 dignitie, chosin and to be chosin be the said King James,
 10 quha sall cognosce, heir, and decyde, and in dew tyme
 determinate, on the causis of his liegis in his hie parlia-
 ment, be the advise and consent of the thrie estaittis of
 the said Kingdome of Scotland: *quhilk* he had be his
 kinglie authoritie institute; And willing to extend his
 15 liberalitie and bontiefulnes towardis archebischopis,
 Bischopis, abbattis, and priouris, administratouris, com-
 mendatouris, and utheris prelattis foirsaidis As his pre-
 dicessouris had done in tymes bypast, The said sowme
 of Ten thowsand ducattis, to the nowmer of ane thowsand,
 20 and fourtie pundis streviling money or thairby, As it is
 conventtit and aggried with be the saidis Archebischopis,
 Bischopis, Abbattis priouris commendataris, and utheris
 prelattis, albeit exemit; quha for *the* said college of
 iustice (laitlie institute be *the* said King James 3eirlie
 25 and perpetuallie) sustenance and mantenance, The
 saidis Archebischopis, bischopis, Abbattis, priouris,
 commendataris, and utheris foirsaidis To pay the said
 sowme of Ane thowsand and fourtie pundis usuall money
 foirsaid of the said Kingdome of Scotland *the* said sowme
 30 of Ane thowsand and fourtie pundis sua deduced of the
 fruietis rentis and emolumentis of the benefices ecclesi-
 estik seculare and regulare for thair collatioun provisi-
 oun presentatioun and everie uther dispositioun coni-
 unctlie or severallie to be payed be thame and everie
 35 ane of thame of thair chaptourlie kirkis and conventtis
 Monasteriall and priories to be upliftit and takin up
 respective with exprese consent of these that salbe

nominat be the said college as collectouris to be depute
 be thame for the tyme everie 3eir and perpetuallie heir-
 eftir, and be the interantes in the saidis benefices in tymes
 cuming, successouris and possessouris for evir, quhidder
 it be in the caissis of permutatioun or dalie deceis or 5
 quhidder it be demissioun, or deprivation, or ony uthir
 wyis be pensioun or vacance Or quhidder it be of pro-
 visioun of the seat appostolict, Or be quhatsumevir uthir
 auctoritie to be maid be ony persone for caussis quhat-
 sumevir, and the samir to be Invaleid and null and to 10
 mak no faith in tymes cuming be pley or law, quhidder
 they salbe exprest in the mandattis and *letteres* of Arche-
 bischopis, bischopis, abbattis, priouris, *commendaturis*,
 adminstraturis, and prelattis forsaidis, maid or to be
 maid, and under the sensuris and punischement of *the* 15
 Fol. 55. kirk and deprivation fra the saidis benefices be ws,
 and the seate appostolict, exponand and declairand the
 said sowme pro rato fra the personis foirsaidis fullilie
 and perfytlie to be payit to the said college and thair
 collectouris, depute for the tyme To wit the said 20
 sowme of ane thowsand and fourtie pundis money foir-
 said, To be delyverit in thair awin handis be thame selffis,
 or *utheris* be thair propir auctoritie, to be liftit collected
 and takin up for the use and utilitie, be way of dis-
 tributioun, to the said president and fourtene *persones* 25
 of the said college of iustice, pro rato resident for the
 tyme to be devyded for thair pensionis; *quhilk* salbe
 frie and eximed frome ordinare iurisdiction, frome all
 contributionis of the teindis, or tent pairtis, frome all
 exactionis and Impositionis, frome all chiritabill subsidies, 30
 fol. 69. ordinarlie or extraordinarlie, Albeit they be Imposed be
 Pope 70. the apostolict auctoritie; Or at the kingis instance, Or
 James 5. for ony weir or expiditioun aganist the turk or infidelis,
 Or for quhatsumevir uthir cause Imposed or to be
 Imposed: As in the kingis *letteres* patentis, and publict 35
 instrumentis maid thairanentis, The tennouris quhairof
 ar moir fullilie contenit and expressed. And thairfoir

for the kingis pairt and archebischopis primattis, borne
legattis, Bischopis, abbattis, priouris administratouris,
commendatouris and utheris prelattis foirsaidis It wes
humelie requested of ws, That *the* said institution to
5 be maid we suld joyne the ead of apostolict strenth,
and to provyde tymouslie of oure apostolict benignitie.
And thairfoir, we of a fatherlie effectioun Moist zelous
of *the* quyet and peciabil estait of that kingdome,
and hoiping the peciabil succes and sweit tranquillitei
10 sall redound *thairby*: moved be these supplicationis,
allowing that concessioun and conventioun foirsaid, and
all the articlis contenit in the *letteres* and instrumentis
to be lauchfull, guid, honest, and nawyis, contrare to
the holie cannonis: We appruif the samin be oure
15 apostolict auctoritie be *the* tennour of thir *presentis*:
and do conferme the samin to have full effect, and
Inviolable for evir the same to be decernit to be keiped
and observed; Suppleand all the defectis of law and
deid, gif ony sall fall out in thame: And Nevirtheles
20 for the manteinance of the said College, attour and
abone the said ane thowsand and fourtie pundis
money, Deducit frome the Archebischopis, bischopis
abbattis, priouris, commendatouris, administratouris,
and utheris prelattis foirsaidis, distributed, and utheris
25 rentis and emolumentis quhatsumevir to be disposed
upoun be the said King James and / his successouris
kingis of scotland for the tyme Or utheris quhomesoevir
for *the* said college for the moir full intertenyment
thairof quhidder they be grantted and gevin alreddy or
30 to be gevin, and granted, heireftir, as also to the said
king in this oure consent, these ecclesiastik benefices,
quhidder they be with cuir, or without cuir of the richt
of patronaige of gift or fundatioun, of *the* said king,
or his predicessouris quhais fruttis and rentis, of twa £200 sterl:
35 hundreth pundis streviling salbe takin up do nocht
exceid the samin, be *commoun* estimatioun and 3eirlie
valoure be the deceis of any, or vacand quhen they

Fol. 56.

salbe void with all and sindrie *thair pertinentis* So that
 it salbe lauchfull, to the president and senatouris of the
 said College for the tyme to appoynt collectouris, ane or
 ma in thair names to exact, uptak and lift, the said
 sowme of *the* forsaidis benefices for *thaimselfis* and thair 5
 successouris for evir be thair awin propir authoritie, to
 be converted to the benefite and use, of *the* said
 college; As also be the deceis of these quho obtened
 the corporall possessioun of the saidis benefices, and
 richtis belangand thairto, be thair propir auctoritie to 10
 frielie apprehend, and perpetuallie retene the samin,
 converting and to convert the fruttis, *rentis*, and emolu-
 mentis, for the use and utilitie of *the* ordinarie places,
 of *the* fairsaid benefices: So that the services and cuir
 of the saules gif ony be adjoined thairin be nawyis 15
 neglected, nor they defrauded of *the* samin: bot the
 cuir of the saules be exercised be guid and godlie
 persones, and thair auld use and wount be dewilie
 supported thaireftir as of befor; quhilk we be the
 tennoure heiroy apply, approve Injone and Incorporate: 20
 And mair attoure in *the* institution of the said college
 and conventioun fairsaid, seing the president moist evir
 be ane ecclesiasticall prelatt, and the fourtene persones,
 quhilkis makis up the nowmer fairsaid, evir and togidder
 suld sit as judges to administrate iustice to the liegis, 25
 Sall noch be translated frome the cietie, toun or place,
 quhair they collegiatlie sit for the tyme to ony uther
 place to iudgement / And we exeme and totallie frie
 under the auctoritie of blissed petir and appostolick
 seat; and do ressave in oure protection, all the clerkis, 30
 scribis, notaris, advocattis, appoyntted for the tyme
 admittit for the said exercise, and all the remanent
 memberis of the said senate and officialis, for the
 tyme that exerceis thair offices, frome all jurisdiction
 superioritie, devyne command, poware, preheminance 35
 or visitatioun of ony archebischopis, primattis, borne
 legattis, bischopis, and utheris ordinare of *the* said

Kingdomes jurisdiction, now and in ony tymes cuming,
and frome the jurisdiction of thair officiallis or *com-*
missis, depute be thair *auctoritie*, So that arche-
bischopis, primattis, borne legattis, ordinarie bischopis,
5 officiallis, and *commissis* foirsaidis, sall exerceise no
jurisdiction, or lordschip in haill or in pairt, over thame
thair contractis, besynes, or houssis: bot that the
president and fourtene senatouris for the tyme sall *com-*
peir, and thair clerkis, scrybis notaris, thair advocattis,
10 and officiallis, befor oure venerabill brother the bischope
of galloway, ane dene of the royall chaipell of Streviling,
and our belovit sones, the abbate of the abbacie of *the*
blissed marie of newbottill, and provest of the Royall
chaipell of the blissed Marie of the Craig adiacent to
15 the Citie of Sanctandros; thair to plead for iustice in
materis ecclesiastik, Preceislie forbiddand the saidis
archebischops, premattis, borne legattis, Bischopis
ordinare, officiallis and *commissis*, That they directlie
or indirectlie under ony cullour quhatsumevir, do molest
20 Inquiett, or perturbe, the saidis president senatouris,
clerkis, scrybis, notaris, advocattis and utheris officeris,
of the said college for the tyme aganis this oure ex-
emptioun liberatioun and taking in oure protectioun
be *thaimselfis* or be utheris. Decerning all thair
25 attempttattis athir willinglie, or Ignorantlie, to be void
and of nane effect.

Quhairfor be thir *presentis*, we Injoyne and com-
mand, the bischopis of galloway, and the royall
chaipell, abbattis and provestis foirsaidis, That they,
30 or thrie or twa, or ony ane, of thame selfis, or be ane
uther mak these *presentis* seveirly to be observed,
quairsaevir, quhair, and quhen it salbe neidfull for the
tyme, of *the* said King James or his successouris
solemplie, publissing the samin to the president and
35 senatouris of the college foirsaid, how oft saevir they
salbe requyred thairto, and to quhomsaevir thir *pre-*
sentis salhappin to cum, That they may Injoy peace:

Fcl. 57. And quhasaevir sall molest or contradict the tennour of thir *presentis*, to be denu~~ncit~~ as rebellis by the sensuris and punischement ecclesiesticall, and pecuniall sowmes to be modified be thame, to be upliftit and all uthir remeid be law to be done, All appellatioun beand 5 postponed and discharged, and that lauchfull procese be deducit aganis thame, and oftymes to be aggredged *conforme* to the offens: And gif it salbe neidfull that *the* help of the seculare arme, or kinglie poware, salbe requyred thairto / We will also that *the* benefices 10 ecclesiestik be dewilie estimate, according to the zeirlie rent, that in all these unionis, ane consent may be keiped, As wes in *the* last haldin counsall in lateran concluded, and be Innocent *the* fourt statute, *quhilk* begynn~~is~~ Volentes, and Bonifacius the aucht paipis 15 oure predicessouris: Be the *quhilkis* actis, It wes forbiddin, that no persone suld be called furth of thair awin Citie, or dyocie, except in sum particulare causis to answer in judgement, Or that na judges appoynted be the seat foirsaid suld entir in procese aganis ony 20 out of his awin citie, or dyocie, or presume to commit his office to any uthir. And of these twa mentioun is maid in the said generall counsall, that be no constitutionis or ordinances ecclesiestic, monisteriall or priorlie in *the quhilkis* the benefices ar to be 25 *nominat*, quhidder they be Clunantian, Cistertian, premonstratentian, or Chartusian ordouris; as also the hospitall of Sanct Johnne in Jerusalem be *the* apostolict confirmatioun corroborate with custumes usuages, and naturis with sindrie privilegis, ex- 30 emptionis Indulgen~~sis~~, and *letteres* with unchangebill claussis and uthers Decreit~~is~~, that they can nocht be derogatt or annullit be certane conditionis of thair awin will and certane knowlege, condiscendit upoun be oure predicessouris pappis, and be ws and oure 35 apostolict seat, as gif worde be worde the samir war insert and sufficientlie expressit in thame coniunctlie

and severallie : We will moirover that gif any parroche
kirkis, or benefices salbe united to the said college
of iustice and Incorporat thairunto, that perpetuall
vicaris quha sall have the chaarge of the saules of the
5 *parrochynaris* be appoyntit thairto, To quhome ane
sufficient portioun for his sustentatioun of the fruttis,
rentis, and emolumentis of the benefice salbe reserved,
thairon that he may leif. And because it is difficill
to cary these oure *letteres* to everie places neidfull
10 Be oure apostolict *auctoritie* we decerne, that *the*
transsumpt of thame, under the hand of ane notare
publict And seillit with the seill of any ecclesiasticall
persone of dignity, salbe of sufficient faith bayth in
jugement and owtwith judgement, as gif thir *presentis*
15 war exhibit : Lat na mortall man thairfoir Infringe,
brek, or violat, this mater or vumbe of oure ap-
probatioun unioun annexatioun, Incorporatioun, ex-
emptioun, liberatioun, susceptioun Inhibitioun, will and
command, Bot gif ony man will presume and attempt
20 the contrair, lat him understand he sall Incur the
Indignatioun of *the omnipotent* God ; and wrath of
Petir and Paule *the holie apostolis*. Datum Rome,
Apud Sanctum Petrum Anno incarnationis Dominice,
Ane thowsand fyve hundreth threttie foure 3eiris Sexto 1534.
25 Idus Martii ; Pontificatus *nostri* anno primo.

Eftir the *presentatioun* of the *quhilkis* apostolict
letteres, Beand requyred for the pairtis of the said
moist Illustrius, King James, president and senatouris
of the said College, Of the quhilkis mentioun is maid
30 beand requyred to the executioun of the saidis *letteres*
apostolict and contentis thairin, according to the gevin
and direct forme thairof, frome the apostolict seat :

We brother Jerolme genitus bishop and auditoure Fol. 58.
judge, and executare foirsaid, understanding *the* peti-
35 tioun to be iust and agreabill to ressoun, and willing
also to obey the apostolict command, and reverendlie
to execute the samin, as we ar bund, According to the

apostolict poware committed to ws in that pairt. We
mak knawin Intimate and notyfie the said apostolict
letteres and oure procese, and all and hail the contentis
thereof: To 3ow all and everie ane of 3ow coniunctlie
and severalie, and dois bring to the understanding and 5
knowlege of 3ow these *presentis*: And to requyre 3ow
maist reverend and wirschipfull, fatheris, and lordis
Archebischopis, primattis, borne legattis, and also
bischopis, vicaris, officiallis, generall and subdeligatt,
commissionaris, abbattis *prioris*, administratouris, com- 10
mendataris, prelattis, all and everie ane foirsaidis: To
quhome oure *present* procese is direct. Be the tennoure
quhairof We requyre and charge, Anis, twyis, thrys, and
peremptourlie *coniunctlie* and severallie 3ow all, and
everie ane of 3ow haillie under *the* virtew of halie 15
obeydience, Commandand straitlie under the panes
underwritin; That within the space of sex dayis eftir
the *presentatioun* and notificatioun of *the saidis letteres*
apostolict and this *present* procese and requisitioun
maid to 3ow, or ony of 3ow, and eftir significatioun 20
maid to 3ow be the moist Illustrius King James for the
present King of Scotland, and *present* president &
senatouris, of the said College be the strenth heiroff,
requyred Immediatlie eftir the said dais for the first
twyis for the secund and rest thrys To 3ow all and 25
sindrie foirsaidis, without any delay, Eftir the *perempt-*
ourlie terme assignand the punischement of Twa
thowsand ducattis of gold to the chalmer, the ane
half to *the* pairtie, and the uthir half to *the* chalmer
apostolict toties quoties, for the *quhilkis* apostolict 30
letteres salbe raised with approbatioun, *confirmatioun*,
decreit supplicatioun, applicatioun, approbatioun of
unioun, annexatioun Incorporatioun, exemptioun, liber-
atioun, Inhibitioun commandiment, will and Diroga-
tioun, and all utheris to be done in the lyke cais, as 35
it concernis 3ow *coniunctlie* and severallie / fermelie and
Inviolablie to observe the samin in all tymes cuming:

And that 3e cause the moist - Illustris King James,
 king for the tyme and the president of the said
 college, and *senatouris* thairof and all utheris, and
 everie ane to quhome the saidis letteris sall appertene
 5 to peciablie jois bruik and posses the benefyte thairof,
 sa far as in 3ow lyis: Prohibitand in the menetyme,
 that 3e and everie ane of 3ow foirsaid, to quhome this
present procese is direct, and all utheris persones and
 iudges ecclesiasticall & seculare of quhatsumevir uther
 10 degrie stait *conditioun* or ordoure: Under the pane of
 the said Twa thowsand Ducattis of gold to be upliftit as
 said is / quhome the foirsaidis *letteres* concernis, That
 nathir 3e nor nane of 3ow, publictlie nor prevatlie,
 directlie nor indirectlie, under quhatsumevir cullour,
 15 Molest nor cause Molestation or permit the samin to
 be done, bot in all and be all thingis 3e obey the
 command of the apostolict and thir oure *letteres* reallie
 and with effect: And gif it happynis that 3e fulfill nocht
 the foirsaidis, all and haill bot continew and delay to
 20 accomplis and fulfill the *commandis* and admonitionis
 of the apostolict seat reallie and with effect: We aganis
 3ow and everie ane of 3ow, quha salbe culpabill heirin,
 and contradictouris *thairto* and rebellis, and ar stayaris Fol. 59.
 of the peax of the King of Scotland, the president,
 25 and *senatouris* of the college thairof, for quhome these
letteres sall concerne publictlie and prevatlie directlie or
 indirectlie under quhatsumevir pretext or culloure Off
 quhatsumevir estait degrie or ordoure they be now as
 than and than as now *speciallie* and *particularlie*:
 30 within sex dais Cannonicall premonitioun precedand
 Excommunicate in 3our chaptourlie *conventionis* and
 colleges quhasumevir salbe fundin gyltie heiroyf, and
 the kirkis monasteries and chaipellis to be void and
 vacand, and the foirsaid Twa thowsand ducattis of gold,
 35 *quhilk* pane they have incurred throw thair *contumacie*
 to be exacted uptakin, liftit, and applyed, to the
 remedies of law and deid quhatsumevir / As is decerned

be the apostolick authoritie. And 3ow reverend fatheris,
 lordis archebischopis, and *utheris* bischopis foirsaid,
 onlie exempted on quhome we haif bestowed pontificall
 dignitie for the reverence we carie to 3ow in this pairt
 gif 3e sall do ony thing in *the contrare* of the foirsaidis, 5
 or *command* to be done be 3our selffis or *persones* under
 3ow directlie or indirectlie *privatlie* or publictlie under
 ony culloure quhatsumevir Then as now and now as
 than sex dais cannonicall premonitioun promittit Be
thir presentis do we forbid and interdyte of all interes 10
 and meddilling with ecclesiasticall bissinessis, And gif
 3e sall intergo and sustene the said interdiction for
 uthir sex dais Immediatlie thaireftir We be thir *our*
letteres do suspend 3ow, And *thaireftir* uthir sex dais
 eftir the said suspensioun 3e *continew* obdured and 15
 hardynned twelf dais (*quhilk* god forbid) Now as than
 and than as now cannonicall premonitioun precedand
 be apostolick *autoritie* We bind and apply The
 sentence of excommunicatioun upoun 3ow, and Declairis
 siclyke 3ow to have incurred the pane of 'Twa thowsand 20
 ducattis foirsaid. And seing for *the* mair full execu-
 tioun of the premissis and *letteres* direct to 3ow, We
 could nocht for the *present* proceed forther / beand
 Incumbred and bissied in *our* persone in mony uthir
 hard and grave materis in oure remanent courte / Thair- 25
 foir do we *commit* oure poware, place and appostolick
 auctoritie, be the tennour heirof fullilie for the forther
 executioun heirof, throw all the Kingdome of Scotland
 or ellis ony quhair To 3ow & everie ane of 3ow, lordis,
 abbattis, priouris, provestis, Deanis, Archedenes, Chan- 30
 touris, thesauraris, schollaris, sachristeris, keiparis,
 alsweill of Cathedrale as Metropolitan as collegiate
 kirkis, Channonis *persones* of parroche kirkis or quha
 evir sall supplie the places of archebischopis, vicaris,
 vicaris perpetuall chaiplaunis curatis choristaris, at 35
 alteris, preistis eldaris and utheris ecclesiastik *persones*
 with cuir or without cuir secularis and of quhatsumevir

ordoure regularis in *quhatsumevir* dignitie or offices,
and publict tabellionis or notaris That 3e specialiie and
expreslie, and that everie ane of 3ow we requyre and
admonische be *the auctoritie* and tennour heirof Anis,
5 twyis, thrys peremptourlie *coniunctlie* and severallie 3ow
and everie ane of 3ow be virtew of halie obedyens and
sensusis of excommunicatioun *quhilkis* we pronunce be
thir presentis aganis *thame* and everie ane of *thame*
unles they do that we *command* Straitlie Chargeand, that Fol. 60.
10 within sex dayis eftir the *presenting* and notificatioun of
thir *presentis*, and requisitioun for the pairt of the moist
Illustrius King James King of Scottis for the tyme, and
the president and senatouris of the said college for the
dais foirsaidis, *quhilkis* we have assigned to *thame*, and
15 to everie ane of *thame* without ony forther delay, as
peremptorie terme, and cannonicall admonitioun zit
eftir sik sorte, that in executioun heirof ane sall nocht
stay for ane uthir; that any be ane uthir excuse
himself, bot that they repair and ga personallie, to all
20 and sindrie the foirsaidis persones, and places, quhen,
quhair and how oftyn salbe neidfull, and reid Intimate
informe, and faithfullie *procur*, the saidis *letteres*
apostolict, and all thingis *contenit* thairin, Assistand
safar as lyis in 3ow, be 3oure defens and saifgarde, *the*
25 said Illustrius King James *the* forsaid president and
senatouris of the said College, and fermelie observe
quhatsumevir concernis the saidis *letteres*, to caus *thame*
Inioy the *samin* peciablle and quietlie, Nocht permittand
any be the tennour of *the* saidis *letteres*, to molest
30 Inquyet or perturbe the *samin*, and to stay and forbid
quhatsumevir *contradictouris* and rebellis be sensuris
and panes ecclesiestik or pecuniall to be Imposed be
thair awin will and direction To serve procese aganis
thame To iterate and dowble sensuris and panes aganis
35 *thame* aggredge *the* *samyn*, and gif neid beis to seik
the ead and help of *the* *seculare* arme or supreme
magistrattis to that effect. And Nevirtheles gif any man



quhome the *presentis* do tuiche or may tuich in tyme
 cuming sall nocht obey these oure *commandis*, admoni-
 tionis and Inhibitionis bot refuse defer and neglect
 contumaciouslie to fulfill the *samin*. Than and in that
 cais we do intreat *the* said Illustrius King James for 5
 the tyme princeis and nobillis of that Kingdome of
 Scotland, and quhatsumevir quha sall exercise the juris-
 dictioun temporall and ordinaire, to supplie thair rowmes
 and places, and to everie ane of thame, as partakeris of
 the religioun and faith apostolict and defendaris *thairof*, 10
 for the pairt of oure lord the paip, and be oure
 auctoritie we desyre thame and everie ane of thame as
 they salbe required for the pairtis of the forsaid
 president and *senatouris* of the said college be thame
 selfis or utheris, To extend thair helping hand in this 15
 pairt as the trew Catholik auctoritie requyris within sex
 dais nixt eftir the presentting and notyfication of the
 saidis *letteres* apostolict, and requisitioun to be maid
 aganis the saidis *contradictouris* and *rebellis* or Ilk ane
 of thame, as they salbe culpabill and have *contempned* 20
 ecclesiasticall *sensuris*, be detensioun and arreisting of
 thair guidis movabill in thair awin jurisdictionis, And
 thaireftir be taking of thame, or quhatsaevir *lauchtfull*
 way sall seme convenient be the saidis temporall lordis
 and thair officeris be thair awin auctoritie or rather be 25
 apostolict auctoritie be strang hand Without any hurte
 of thair bodyis untill they obey fullilie all and sindrie
 the *premissis*, *letteres* and this oure *present* procese, and
 to detene and hald up the dissobeyaris and *rebellis* and
 everie ane of thame, be the poware of the *seculare arme* 30
 foirsaid Ay and *quhill* they cum to the obedience of
 thair holie mother the kirk, and proces abone specyfied,
 and that they obtene the benefeit of absolutioun of the
 panes and *sensuris* ecclesiastik, And so that oure said
 substitutis and subdeligattis exercise fullilie all and 35
 quhatsumevir thingis done in this pairt, According to
the forme strentht and tennour of the foirsaidis *letteres*

apostolict and *proces* abonewrittin in all poyntis, Alsua
 that gif these, or ony utheris wald attempt in preiudice
 of *the* said Illustrius King James president and senat-
ouris to change any thing in this procese gevin be ws
 5 be absolutioun or suspensioun, quhairby they could or
 mycht hurte or preiudge the said Illustrius King James
 president and senatouris, To *the* samin oure subdeligattis
 and everie ane of thame, and utheris quhatsumevir we
 do deny ony poware at all, And gif it salhappin that
 10 they proceed in law anent ony of the premissis of the
quhilkis we haif committed the haille poware as said is,
 We do nocht intend in that cais To revoik oure
commissioun unles we mak expres mentioun be oure
 utheris *letteres* of the revocatioun. Nethir will we nor
 15 intend we be *this proces* to preiudge our colligis in any
 poynt.

Nota *the* fyift parliament haldin be King James
the fyft foirsaid act 36. Intitulate Anent the institutioun
 of the College of iustice, *quhilk* is sett down be the
 20 actis of parliament laitlie Imprentted to be of the dait
 the sevintene day of Maij. 1537. 3it the actis Imprentted 1537.
 of befor be Robert lekprevik It beiris of the dait the
 sevintene day of Maij anno. 1532. Quhairby it is
 provyded be the fourtie act thair of Intitulate The
 25 authoritie of the Chancellare and lordis berand Pro-
 vyding alwyis, That the lord Chancellare beand *present*
 in the toun of Edinburgh, or ony uthir place he sal-
 have voit and be principall of the said counsall, and
 siclyke *uthir* lordis, as sall pleis the kingis grace to
 30 Injoyne to thame of his greit counsall to have voit
 siclyke, to the nowmber of thrie or foure. The chan-
 cellare and president to ressave *the* lordis *aythtis*. And
 forther his maiestie exemed be the saidis actis the
 saidis lordis and everie ane of thame bayth spirituall
 35 and temporall fra all paying of Taxes contributionis,
 and uthir extraordinare charges to be upliftit in ony
 tymes *cuning* and fra all beiring of ony office or

charge within burgh or outwith, bot gif it be thair awin frie will and consent etc.

1540. Item in the said King James sevint parliament haldin At Edinburgh the fourtene day of Marche The 3eir of god ane thowsand fywe hundreth and fourtie 3eiris. 5 act. 93. Intitulatt. Ratificatioun of the college of iustice. Quhairby his maiestie and thrie estaittis of parliament for him and his successouris, Ratified, the confirmatioun ratificatioun and approbatioun of the paip of the erectioun of *the* said college, and of the gift of 10 all benefices, rentis, gevin and to be gevin, assigned and to be assigned to the honest sustentatioun of the said college of iustice, and of all *privileges* quhatsumevir grantted, and to be grantted thairto be the pape and his hienes, And attoure gevand and committand to 15 the president and vice president with the senatouris, poware to mak sic actis, statutis, and ordinances, as they sall think expedient for ordouring of proces, and haistie expeditioun of iustice, And in absens of the president and vice president, that *the* eldest in 20 ordoure of the senatouris be president for the tyme etc. et act. 104.

1543. Siclyke in the second parliament of Marie quene of scottis haldin At Edinburgh the fyftene day of December The 3eir of god ane thowsand fywe hundreth fourtie 25 thrie 3eiris act. pri. Intitulatt. Ratificatioun of the college of iustice, and payment of the contributioun grantted to thame The quen is grace with advise of the lord governour and thrie estaittis haifand ratified the institutioun of *the* said college and all *privileges* and 30 liberties thairof etc. Ordaned *letteres* to be direct, Requyring the ordinaris to gif thair *letteres* upon prelattis for getting payment of the restis awand be *thame* to *the* sessioun of all *termes* bygane within sex dais under *the* pane of Cursing *quhilkis* beand bypast *letteres* 35 to be direct to poynd and distrenze etc. ffor ingetting of the contributioun etc.

As in lykemaner. King James the sext of all wirthiest Fol. 62.
 memorie In his maiesties Sext parliament haldin the
 twentie day of October. The 3eir of god ane thowsand 1579.
 fywe hundreth thrie scoir and nynetene 3eiris act. 93.

5 Intitulat. Anent the admissioun of *the* ordinaire lordis
 of sessioun and reformatioun of certane abuses thairin.
 Quhairof *the* tennour followes. Forsamekill, as it is
 havelie, Murmured, be diverse liegis of this realme,
 That oure soverane lord electis and chuses 3oung men,
 10 without gravitie, knowlege or experience, nocht haifand
 sufficient leving of thair awin upoun the sessioun, And
 that sum of thame be thameselfis, thair wyfes or
 servandis, takkis buddis, brybis, guidis and geir, Sua
 that iustice in effect is coft and sauld. ffor remeid
 15 quhairof, The Kingis maiestie with the advise of the
 thrie estaittis of this *present* parliament Statutis, and
 ordanes, That nane of the lordis of sessioun alreddie
 ressaved or to be ressaved, Nouthir be thameselfis thair
 wyffes or servandis, tak in ony tymes *cuming*, Bud,
 20 brybe, guidis, or geir fra quhatsumevir persone or
 persones *presentlie* haifand, or that heireftir salhappin
 to have ony actionis or causis, persewed befoir thame,
 outhir fra the perseware or defender, Under the pane
 of confiscatioun of all thair movabill guidis, that dois
 25 in the contrare, the ane half thairof, to be applyed, to
 oure soverane lord, and the uthir half to the revelare,
 and tryare of the saidis Bud takaris: And forther
 decernis and ordanis *the* saidis bud takaris to be dis-
 placed, and deprived simpliciter of *thair* offices quhilkis
 30 they beir in the College of justice, and to be declared
 infamous, and als to be punished in thair persones
 at the kingis maiesties will. And siclyke oure said
 soverane lord, with advise fairsaid, hes declared and
 declairis that in all tymes *cuming*, quhen ony ordinaire
 35 place vaikis in the sessioun, That oure said soverane
 lord sall *present* and nominate thairto, ane man that
 feiris God of guid literature, practik, judgment, and

understanding of the lawes, of guid fame haifand
sufficient leving of his awin, and quha can mak guid
expeditioun, and dispache of materis, tuicheing the
liegis of this realme, quha sallbe first sufficientlie tryed,
and examinate be ane nowmer of the saidis ordinar 5
lordis, And incaise that persone presented be the Kingis
maiestie be nocht fund, sa qualified be *thaim* as is befor
described, Oure soverane lord with advise of his saidis
thrie estaittis, declairis, that it salbe lesum to the saidis
lordis, to refuse the persone presented to thame and 10
the kingis maiestie to present ane uthir, sa oft as he
plexis, quhill the persone presented be fundin qualified
for using of the said place. And siclyke oure soveran
lord with advise foirsaid, hes declaired and declairis,
That the president of the said college of iustice salbe 15
chosin be the haill senatouris thairof, of the conditionis
and qualities abonewrittin, quhidder he be of the
spirituall or temporall estait, ffor chusing and electting
of quhome, The kingis hienes and estaitis foirsaidis
dispensis with that pairt of the first institution of the 20
college of iustice, beirand that the president suld be
of the spirituall estait, and ane prelatt constitute in
dignitie, And alsua declairis, that in absence of the
chancellare and president now being, and that salhappin
to be for the tyme, It salbe lesum to the saidis lordis, 25
to elect and chuse, ony ane of thair numer, quhome
they think qualyified, and wirthiest as said is, quha
salbe called vice president, for using of the said office,
calling of materis, repeitting of allegeances, proponed
be *the* advocattis, at the bar, Collecting of the lordis 30
voittis, and pronunziatioun of thair decreittis, and inter-
loquutouris. ay and quhill the returning of the saidis
chancellare or president. Vid. Stat. Willelmi c. 25. Stat.
Rob. 1. c. 21. Jac. 5. parl. 7 act 104.

fol. 54.

Præsi-
dents
office.

Fol. 63.

1592.

Item his maiestie King James the sext in his twelt 35
parliament. haldin the fyft of Junij The 3eir of god ane
thowsand fywe hundreth foure scoir twelf 3eir is act

.132. Intitulat. Anent the jurisdiction, presentatioun, qualities and aige of the lordis of sessioun.

Because the nobilitie, Erlis, lordis and baronis, ancient heritouris, of landis levingis, and possessionis
5 understuid, the institutioun of *the* college of iustice, and lordis of sessioun, to have bene fra the *begynning*, for decisioun of all civile actionis, unto the *quhilk* decisioun, thair haill heretaiges, levingis landis and possessionis ar subiect, and that his hienes progenitouris institute the
10 said college of Cwnning and vyse men, *quhilk* his maiestie is willing to continew, according to his foirbeiraris guid intentioun: and to foirsee the corruptioun inressand in the said college in this lattir and declyn-
ing aige, Declairis his hienes mynd be act of parliament,
15 that in all tymes heireftir, quhen any place sall vaik in the sessioun, That his maiestie sall *present* and *nominate* *thairto* a man feiring God, of guid literature, practik iugement and understanding of the lawes, Of guid fame, haifand sufficient leving of his awin, and quha could
20 mak guid, expiditioun, and dispache in materis tuiching the liegis of this realme: And 3it that it is requyred, that his hienes guid intentioun, be mair speciallie expressed, towardis the complaynt of cheising of 3ounge men without gravitie knowlège and experience, upoun the
25 said sessioun nocht haifing sufficient leving of thair awin. etc.

Thairfoir oure soverane lord with the advise of the lordis of this *present* parliament Declairis that nane salbe
ressaved in ane place of ane senatoure in the college of
30 iustice Except he be sufficientlie tryed and knawin be his hienes and haill lordis of the sessioun, that *the* said persone to be *presented* and ressaved have in 3eirlie rent, propirlie pertening to himself, the sowme of Ane
thowsand merkis usuale money of this realme, Or ellis
35 twentie chalderis of wictuall, and that his experience, qualitie and *conversatioun* may be the bettir tryed, that he be of the aige of twentie fywe 3eiris at the leist

Qualifica-
tion of
Lords of
Sission.

1000
Merke
Scots.

25 years of
age.

compleit in all tyme cuming uthirwyis his *presentatioun* and admissioun to be Null, Annulland all presentationis, gevin and grantted be his maiestie, sen his hienes coronatioun to quhatsumevir persone or persones nocht beand of the aige foirsaid: Ratifeand nevirtheles and 5 apprevand alwyis all actis maid be his maiesties pre-dicessouris and his hienes self of befoir upoun the institutioun of the said college, and reformatioun of abuses *thairof*. And forther his maiestie in his fourtene parliament haldin the aucht day of Junij The 3eir of god 10
 1594. ane thowsand fywe hundreth foure scoir and fourtene 3eir. act 211 Intitulat Anent the privilegis of the college of iustice And ratifeand the samin in all poyntis at lenth. Nochtwithstanding quhatsumevir actis, or *con-*stitutionis, that may appeir to derogate the samin. etc. 15

And laist laitlie his maiestie King James the sext
 1605. upoun the last day of Maij The 3eir of god ane thowsand Sex hundreth and ffywe 3eir. be his hienes patent
 Fol. 64. *letteres* direct to the saidis lordis Anent, The forme ordoure and qualities of the ordinaire *senatouris* of the 20 College of iustice, abonespecified, and maner of thair admissioun To be called lordis of counsall and sessioun. Quhair of the forme and tennoure followes, As is contened in the (*sic*) thair sederunt buikis and registeris. The *quhilk* day Alexander erle of Dumfermling etc. Lord 25 Heich Chancellare of Scotland Exhibit and producit and *presentit* to the lordis of counsall and sessioun this underwrittin *lettere* direct frome his moist sacreit *majestie* to the said lord heich Chancellare, and to the lord president and remanent *senatouris* of the college of 30 iustice. *Quhilk* lettir eftir the samin wes maid oppin and unclosed in *presens* of this (*sic*) saidis lordis beand publictlie red in thair audiens proported the *tennour* and contentis following. Richt trustie and weilbelovit counsalouris and cousignes We greit 3ou hartlie weil, 35 That place of sessioun and iudicatorie in thatoure kingdome, being the supreme and soverane ordiner

courte representting oure royall estait, and *authoritie*,
and being the werray porculace of oure obediens within
oure realme, hes evir bene had in that regaird with us,
that we will be laith to omit any thing undone that may
5 serve in the manteinance of the honourabill dignitie and
auctoritie of the *samin*, that thair throw we may nocht
onlie be *the* *bettir* obeyed, that place and sessioun,
and these that ar preferred to the charge within the
samin, may be dewilie respected, and the subiectis of
10 that oure realme may feill the sweit fruttis of oure
provident directionis, and 3oure faithfull administratioun,
And thairfoir that men unmeit of any suiche calling
suld nocht presume to be suittaris for preferment to
ony sic place: Oure will and plesour is, That be 3oure
15 act and speciall ordinance to be recordit in 3our buikis
It be declaired that nane be ressaved in ony of the said
vacand places of sessioun, that sal heireftir in ony
maner of way be woid, except the pairtie to be admit be
of the qualitie, Rank and conditioun following, That he
20 be ane of the ancient vys and lerned advocatis quha hes
gevin best pruf of thair wisdome, leirning, honestie and
guid behavioure in the exerceis of thair office of pro-
curatioun. ffor *quhilkis* cause the lordis of sessioun
in all tymes cuming sall have enacted be thair awin
25 electioun, and enrolled in thair buikis the nowmer of
sex of the advocattis of thair courte quha salbe thocht
qualyified maist expedient and wirthie to supplie ane
place may happin to vaik amangis *thaim* quha may be
called elected, and as ane of thame sall inlaik 3ea these
30 that heireftir salbe in 3our places sall name & elect ane
uthir of thame of the *samin* calling in his place, and
sua hald the nowmer evir full of sex of *the* maist suffi-
cient advocattis to be preferred be oure *nominatioun* to
ony place that may vaik in sessioun / Or than ane of
35 *the* principall clerkis of sessioun that hes *servit* at the
leist ten 3eir^s in office: Or than that he be ane of the
baronis and lordis of the heich, and soverane courte of

parliament, quha have ressavd that dignitie to be heretable in that place ather be ws or oure predicessouris or successouris, Or than ane of thair sones lauchfull, Or any knycht quha of his inheritance may spend of frie renew, to the awaill of Twa thowsand pundis money of 5 Scotland 3eirlie, ffor sik as ar of that rank and moyane, ar nocht necessar to be advocattis, or to be constraned to bestow, thair tyme in service in pleiding at the bar, or using of sic exerceis to mak thameselfis capabill of that honoure dignitie or preferment. Provyding they be 10 utherwyis knawin and tryed to be sufficientlie qualyfeit in leirning wisdom and guid conversatioun: And except they be sum of thir sortis and conditionis of men Nane to be heireftir *presentit* or admittit to ony place in Fol. 65. the sessioun and college of justice in Scotland: And 15 forther for avoyding of ane generall abuse *quhilk* hes croppin in all cuntries, quhair the places of iustice and hieast dignitie of adminstratioun thairof ar obtenit be corruptioun and filthie moyane in sik caissis of bying and selling. Oure will is that it be enacted that nair 20 be ressavd and admitted in tyme cuming bot they be first straitlie sworne, that they nethir directlie nor indirectlie have obtenit thair *presentationis*, nor procured ony uthir to dimit to that effect, that mycht be *presented* be ane sinister moyane, for gold, or silver, or ony uthir 25 guid deid, or promes thairof directlie nor indirectlie, and gif evir the contrarie may be tryed, they to be haldin as perjured and Infamous persones. Mairover oure will is, that 3e sall sett down with *present* diligens, Ane certane forme of tryell of the sufficiencie and litera- 30 toure in leirning and knowlege of all sic as sall desyre to be admittit to be the lordis of sessioun, or sall gif in *presentation* to that effect. And generallie that 3e sett down, all sic ordouris to be keiped be the memberis of that oure college of iustice as may bring the samir, to 35 the wountted honoure and dew reputatioun And so we bid 3ow hartlie fair weill ffrome our maner of Grenewich

the twentie day of Maij: 1605. Eftir the publict reiding
 quhairof / The lordis haifand with grave and sattellit
 judgement and deliberatioun *considderrit* the subiect and
 contentis of the samin *ffinding* thairin expressed the
 5 undouttit pruif, of thair (*sic*) mair *than* princelie effectioun,
 and provident cair evir intertenyed be his maiestie to his
 hienes cheif courte and suppreme seate of iustice, and to
 the senatouris thair of fra tyme to tyme, The sweit fruittis
 quhairof they moist inteirlye acknawlege hes bene alwyis
 10 to everie ane of thame In particulare reaped in super-
 aboundande measoures In regaird *quhairof* they moved
 with sa forceabill bandis hes solemnatie awowed in all
 synciritie of hart To bestow nocht onlie the meane
 sweitnes of thair maist humill and serviciabill endevoiris
 15 in the charge *conciedeit* to thame bot *quhatsaevir*
 of thair lyfe in *the* service *quhilk* is moist dew and
 iustlie belonging to so graciuss a soverane and *majestie* /
 And to the end this abonewrittin *lettere* contening
 sa cleir evidence of the princelie fervent zeall caryed
 20 be his *majestie* for Ministring of iustice within the
 integritie thairto appertening, be nocht hencefurth con-
 celed, bot may be maid publict and knawin to everie
 ane: The saidis lordis hes ordaned this lettir, according
 to his *majesties* iust pleasoure and charge thairin ex-
 25 premed, *quhilk* is in all reverence and humilie accepted
 be thame, and *quhairunto* with fordward myndis they
 conformed thame selfis, To be enacted and recorded in
 thair publict registeris, and to have the force effect and
 vigoure of ane perpetuall law and statute, *quhilk* in
 30 uniformitie of consent to have decreit to be in maist
 strait maner with all observance euir keipitt in tyme to
 cum, And forsamuch as this ordinance, declaratioun
 is speciall maid, quhat rankis and qualities of persones
 ar capabill of the places, *quhilk* salhappin heirefter to
 35 vaik in sessioun, Amangis the *quhilk* it is condiscendit,
 that ane of the saidis rankis sall consist and be filled
 out with sex of the maist experte, and best qualified

persones, advocattis, quhome his hienes hes willit to be
 chosin be the lordis of sessioun to that effect, They
 have thairfoir Named and maid choise of thir persones
 following. That is to say *Schir* Johnne scharp, Maister
 thomas Craig, Maister Williame Olyphant, Mr Alex- 5
 ander King, Mr Johnne Arthoure, Mr thomas henrysone,
 all being advocattis of thair courte, and quhais erudi-
 tioun guid conversatioun and sufficiencie of *answerabill*
 qualificatioun being wirthie of the said calling *randiris*
 Fol. 66. everie ane of thame capabill of the *samin*, *quhilkis* sex 10
 advocattis the lordis ordanis to be called elected, And
 quhairas also his maiestie in the end of the abonewrittin
 lettir hes committed to the saidis lordis *senatouris*, the
 prescrying of ane forme of tryall, *quhilk* salbe sustenit
 be these quha sal heireftir clame to be ressaved and 15
 admittit to the said honoure quhairby his maiestie makis
 mair nor manifest that vehament ardoure, *quhilk* his
 maiestie retenis in the mantein^{ing} of the dignitie, and
 reputatioun dew to the said college, and to the medica-
 torie¹ and iudges thairof, In regaird quhairof the saidis 20
 lordis embracing this his maiesties moist laudabill
 designe. Tending to incurage and animate all sic as
 ar furnisched with meriting giftis to accept guardonis in
 the weill publict dew to thair vertewes, and contrarie-
 wyis to repell and beir a bak utheris *quha* of thameselfis 25
 unwirthie lev^{ing} to preposterous and sinistrous meanis,
 labouris, unlauchfull middis to attene to premotioun,
quhilk aucht nocht thus indirectlie to be purchest.
 Thairfoir fyndis and declairis, that quhasaevir sall heir-
 eftir upoun his hienes *presentatioun* desyre to entir in 30
 the said place, salbe subiect to gif prui^f of thair suffi-
 ciencie, and abyde this following forme of tryall *quhilk*
 salbe enjoyned to thame consisting in thir speciall
 poyntis exprest in this ordoure. That is to say first the
 saidis lordis hes fund it expedient and necessar, that *the* 35
 lord chancellare in his absens the president of *the*

¹ *Lege* iudicatorie.

session for the tyme, Select and chuse sum place and
 text ane or ma as the saidis lordis plesis furth of the
 bodie of the writtin law, aithir Civile or Cannon and
 assigne *the* samin to the persones, clameand the foirsaid
 5 vacand place, to be intreated upoun, Sua that they salbe
 haldin to appeir in publict befor the saidis senatouris
 and lordis upoun *the* thrid day nixt eftir the said place
 of the law be Imperted to *thaim* as said is, and than,
 sall discourse in latyne upoun the said text in the Inner
 10 courte *quhair* *the* saidis lordis sittis in administratioun of
 iustice sic ane competent space as salbe enjoyned and
 limitate to thame be the saidis lordis: Attoure *the* said
 lord chancellare or president sall caus be called in thair
 audiens *athir* the samin day or ony sic uthir day as salbe
 15 thocht meit any of the controverted actionis dependand
 befor thame, The cais *quhair* of they sall cause be
 at lang debaitted be the pairties *procuratouris* compeirand
 at *the* bar. Lyke as the saidis *procuratouris* sall answer
 propone and allege, all thair exceptionis, Replyis answeris
 20 and argumentis, *quhilkis* athir of thame may alledge pro,
 et contra in the said actioun, and eftir that *the* said
 action be fullie and at lenth ressonit, The pairties and
thair *procuratouris* beand removed as use is, The foirsaidis
 persones clamand the said vacand place, beand present
 25 all *the* tymes of the ressoning thair of salbe haldin as
 be *thir* present act, they ar ordaned to mak exact, and
 perfyte relatioun to *the* saidis lordis of the caise and
 stait of the samin actioun disputed as said is, and
 reporte the exceptionis proponed for the pairt of *the*
 30 defender and replyis maid in ordoure to everie excep-
 tioun, and sua furth to *proceid* distinctlie to the replyis
 and uthir answeris and argumentis, *quhilk* war delyverit
 befor the saidis lordis, and allegit for athir pairtie be
thair saidis *procuratouris* thairanentis as said is *Quhilkis*
 35 premissis beand dewilie and in ordoure dischargit, the
 foirsaidis persones sall incontinent declair thair awin
 opinioun, concerning the said actioun, and upoun *the*

allegeances and *answeris* proponed be the pairties, And
 rehearse and reporte to *thame* in maner befor reheris, In
 declairing of the *quhilk* opinioun it salbe also requisit
 to *the* foirsaidis to gif thair ressones and argumentis,
 quhairby they ar moved to inclyne to the resolutionis 5
 uttered be *thame* in maner foirsaid ; And this abone-
 writtin tryell beand ended, The saidis lordis, sall delib-
 erate upoun the behaviour and discharge gevin be *the*
 saidis persones in thir poyntis of pruiif abonewrittin, And
 accordinglie sall refuse and reclame the foirsaid vacand 10
 place, that persone quha hes best sustenit, and borne
 out the said tryall in the sufficiencie thairunto requyred,
 And quhais qualities and *conditionis* salbe fundin moist
 aggreabill to be *answerabill* to sa honourabill promotioun,
 and to stand *witht the* circumstances prescryved be the 15
 abonewrittin ordinance flowing fra his sacreit maiesties
 abonewrittin lettir *registrate* as said is. *ultimo* Maij The
 3eir of god ane thowsand sex hundreth and fyve 3eir^{is}.
 1605.

This his maiesties lettir and ordinance, Conforme
 thairto abone specified, beand weill and lernedlie con- 20
 saved, 3it appeiris to derogate nocht onlie *the* first
 erectioun and Institutioun of *the* foirsaid college, Bot
 also the severall actis of *parliamentis* abonewrittin etc.
 And thairfor aucht to be weill and vyselie considerred.

Anent the supernumerall, or extraordinare lordis 25
 of the college of justice counsall and sessioun
 foirsaid and of thair continewall remanyng to
 do iustice. etc.

Inprimis the lordis of the college of justice, ffindis,
 and considderis, That the multitude of supernumerall 30
 or extraordinare lordis adjoyned to the president and
 fourtene ordinare senatouris, is aganis the erectioun of
 the college of justice, actis and statutis, maid be
 umquhile ourre soverane lord, that last deceissit King

James the fyft (quhome god assoilze) In parliament,
be advise of the thrie estaitis of the samyn. Observed
and keiped be his maist nobill grāce all his tyme. Be
the *quhilk* it wes nocht lesum to his maiestie to adjoyne
5 of supernumerall or extraordinare lordis, to the said
senatouris except thrie or foure of the greit counsall at
the maist.

Quhairfoir the saidis *senatouris* humelie requeistis,
prayis and exhortis, the quenis grace regent of this
10 realme under oure soverane lady quene of the samyn,
To name schaw and declair, *quhilk* thrie or four of the
greit counsall sall have voit, and to be adjoynd to the
saidis *senatouris*, and to discharge the remanent, *con-*
forme to the erectioun actis and statutis foirsaidis, And
15 *that* the said supernumerall or extraordinare lordis,
remane *continewallie*, and mak personall recydenche
with the president and utheris lord Numeraris ordinare
in discussing of all caussis and administratioun of justice
to the liegis of this realme / With certificatioun and
20 they failze They sall nocht have voit, at thair cuning, Fol. 68.
bot salbe removed as utheris unchosin, Be resson that
it may be iudged gif they do uthirwyis, that they cum
allanerlie for particulare actionis of thair awin, or
concerning freindis and to have expiditioun thair of,
25 and than to depairt as they pleis. Statute be *the* saidis
lordis: The 3eir of god Ane thowsand fywe hundreth 1555.
fyftie fywe 3eiris.

Anent the dalie recidence of the lordis, and
pane Impute to them for keiping thair of. etc.

30 Item anent the act of dalie recydenche maid in
umquhile oure soverane lordis tyme King James *the*
fyft, (quhome god assoilze) The lordis seand and
considerand the greit abuse thair of in tymes bypast.
Hes statute and Ordaned, that quha beis absent be the

space of aucht dais togidder but licence asked and
 obtened of the president in presens of the hail
 counsall, and be thair avise, As *the* said statute
 proportis, he sall tyne his place, and the samin to be
 vacand ipso facto, and the aucht dais beand bypast, 5
 That *letteres* be direct at the quenis grace instance on
 him, To compeir befor the lordis at ane certane day
 To heir and see his place declared vacand, and the
 quenis grace to be advertesit heirop Incontinent be the
 president and lordis, to provyde ane uthir in his place, 10
 and quha beis absent feware dayis he sall pay for Ilk
 day of his absens sex schillingis aucht pennyis to be
 deliverit to the collectouris for the tyme Incontinent,
 and be repute absent unto *the* tyme *the* said sowme be
 payed, And als eftir that *the* saidis lordis entir in the 15
 counsalhouse dalie, that nane of thame depairt, befor
 the rysing of the lordis but licence obtened under the
 said pane, And to that effect, Ordanis the clerk of
 register, to caus writ dalie the names of the lordis
 present at the houre foirsaid iustlie, and of thame 20
 remanend quhill the rysing of *the* lordis: And ouklie
 on setterday to gif the names of *the* absentis of that
 oulk to *the* collectoure for uplifting of *the* fautis of the
 absentis foirsaidis. And to adverteis *the* president of
 thame that beis absent aucht dais togidder, And sua 25
 lang as *the* lordis remanis sittand in judgement, that the
 president cause sylence to be keipit conforme to the
 auld act maid of befor, as he will answer thaireupoun
 to *the* quenis grace, and the samin to be extended,
 that nocht allanerlie the lordis nocht to speik, or round 30
 with thair marrowes, bot mekill les with ony uthir
 persone in the counsalhouse, and that nane of the lordis
 speik with the pairties or *procuratouris* at the bar bot
the president allanerlie. Statut be the lordis .4. Martii
 ano 1532. Vid. Mar. Reg. parl. 2. act. 1. Rati- 35
 ficatioun of the college of iustice and payment of *the*
contributioun grantted to thame dait foirsaid. viz. the

fyftene day of December. The 3eir of god ane 1543.
 thowsand fywe hundreth fourtie and thrie 3eiris. Vid. . . .
 Jac. 6 parl. 13. actis .170. et. act 183. / Intitulate
 Ratificatioun of the privileges of the college of iustice
 5 dait .21 Julij 1593. 1593.

Discharge of the foirsaidis Lordis 'Taxationis. Fol. 69.
 Quarto Martij: 1532.

The quhilk day My lord thesawrare in *presens* of
 the lordis of counsall wes content that na procesis sall
 10 pas upoun ony of the lordis of sessioun, ffor Inbringing
 of the taxatioun put upoun thame, be *the* papes bullis, fol. 55.
 and reallie discharged thame, anent *the* thrid teindis
 except prelacies: And *presentlie* Commanded Mr Johne
 Reid provest of Simpill subcollectour to *the* said
 15 taxatioun, to ceis frome all proceeding aganis thame or
 ony of thame for thair pairtis of the saidis taxtis etc
 Quhairupoun Maister willame sinclair deane of
 Restalrig for himself and the remanent of *the* college
 of Justice asked and tuik instrumentis. etc., etc.

20

[ANNOTATIO]¹

[It is heir to be remembred, that in oure souerane
 lord his maiestie King James the sext his ellevint
 parliament in the omitted actis thair of nocht Imprinted
 in tabulo .8. Mentioun is maid of ane act In
 25 favouris of the lordis of sessioun and College of justice,
 Clerkis, scrybis and memberis thair of as salbecum
 aiged and unhabill. Jac. 6. parl. 11. 29 Julij anno
 .1587. Quhair of the tennour is unknawin Be ressone
 it is nocht prentted, and sua I knaw nocht the effect
 30 *thair of* etc.]

¹ Fol. 2 of University Library copy.

Fol. 70.

King James the fyft and his successouris and
 specialle King James the Sextis guid will
 and favourabill clemencie had to thair maies-
 ties lordis of thair hienes secreit counsall, and
 lordis senatouris of thair college of iustice and 5
 uthiris iudges within thair Kingdome of
 Scotland, as followes of all wirthyest memorie
 etc.

1537.

In the first the said King James the fyft in his fyft
 parliament haldin the sevintene day of Maij The 3^{er} of 10
 god ane thowsand fywe hundreth threttie sevin 3^{er}is
 [act 68] Intitulat the Kingis guid mynd to *the* lordis of
 sessioun / Makand mention fforsamekill as his maiestie
 for the greit effectioun that his hienes hes for iustice to
 be done and equalie Ministrat to all his liegis hes in 15
 his last parliament chosin ane certane of *persones*
 spirituall and temporall to be upoun his graces dalie
 sessioun and to Ministrat iustice equalie amangis all his
 liegis as said is eftir thair consciens and understanding
 and all these *persones* ar sworne to do *the* samin; and 20
 als at his *command* they have maid certane statutis and
 rewlis to be observed and keiped be thameselfis and
 uthiris in thair doingis and proceding in iustice for all
 tymes, the *quhilkis* statutis and rewlis his maiestie had
 subscrivit with his hand: Thairfoir his hienes of his 25
 awin frie motive and *propir* will Ratified and apprevd
 be *the* said act and *letteres* All and sindrie *the* saidis
 statutes maid be *the* saidis lordis of sessioun in everie
 poynt: Attour his maiestie promitted to *the* saidis
 lordis; that he suld nocht be ony prevate writting 30
 charge or *command* at *the* instance of any persone, or
 desyre thame to do uthirwyis in ony mater that sall cum
 befor thame, bot as iustice requyris, or to do onything
 that may brek statutis maid be thame at his hienes
command and doing of iustice / Als his maiestie suld 35

authoreis manteine and defend all the saidis lordis thair
 persones landis and guidis fra all wrang, harme hurte and
 Iniurie to be done to thame be ony maner of persone,
 and quha that dois in the contrare to be punished with
 5 all regoure : And because the saidis lordis chosin upoun
 his hienes session presentis his maiestie persone, and
 beiris his hienes auctoritie in doing of iustice his
 majestie suld have thame bayth spirituall and temporall
 in speciall honour and manteinance, and his hienes suld
 10 gif na credeit to ony man that will Murmoure thame or
 ony of thame be doing of wrang and inhonestie, bot they
 salbe callit befor his maiestie, and gif they be fundin
 culpabill to be punisit thairfoir eftir the qualitie of the
 falt and demereit, And gif they be fundin clene and
 15 innocent, The persone *complinand* salbe punished with
 all regour, and nevir to have credeit *witht* his maiestie
 agane / Attoure becaus the saidis persones man await
 dalie upon his hienes said session (except feriete tymes)
 and suld be thairfoir privilegit abone utheris : heirfoir
 20 his maiestie exemit and be the tennoure of the saidis
letteres exemis thame and everie ane of thame baith
 spirituall and temporall, fra all paying of taxes *contribu-*
tionis, and utheris extraordinare charges to be upliftit in
 ony tymes *cuming*, and fra the beiring of ony office or
 25 charge *withtin* burgh or outwith, bot gif it be thair awin
 frie will and consent. Item his maiestie gaif and
 granted to *the* lordis of session that gif ony persone or
 persones dishonourit or lichtlied thame or ony [ane] of
 thame in ony maner of way That *thai* command charge
 30 and put that persone or persones in waird in his hienes
 castell of Edinburgh or in ony utheris castellis they
 pleis To remane quhill they have maid satisfacioun for
the falt at *the* saidis lordis consideratioun, gif the falt be
 small and Injurious, and gif it be greit quhill they
 35 adverteis his hienes thairof that his majestie may gar the
 samin be amended, and punischement maid thairfoir as
 effeiris / And this his maiesties ratificatioun approba-

tioun promit and grant of all thir premissis his hienes
 subscrivit with his hand, and ordanit the same to be
 put in the buikis of counsall togidder with the statutis
 maid be [*the*] saidis lordis siclyke subscrivit with his
 hand At the castell of Streviling the tent day of Junij 5
 1537. the 3eir of god ane thowsand fyve hundreth threttie
 sevin 3eiris, and of his regnne *the* threttie sevin 3eir.

Item in King James the sext his *Majesties* threttent
 parliament the twentie ane day of Julij The 3eir of god
 1593. ane thowsand fywe hundretht fourescoir and threttene 10
 3eiris Intitulat the pane of thame that trublis the par-
 liament sessioun or utheris iudgementis act ane hundreth
 thriescoir and threttene. Quhair of the tennour followes.

Fol. 71. It wes statute and ordanit be his Maiestie and lordis of
 articlis of that parliament: That quhasaevir salhappin 15
 at ony tyme heireftir to streke hurte or sla ony persone
 within his hienes parliament house during the tyme of
 [*the*] halding of parliament / Within the kingis Inner
 chalmer, Cabinet or chalmer of peax The kingis
 maiestie for the tyme beand within his palice. Or within 20
 the Inner tolbuith the tyme that *the* lordis of sessioun
 sittis for administration of iustice: Or within the kingis
 privie counsalhouse the tyme of the *counsallis* sitting
 thair: Or quhasaevir salhappin to strek hurte or sla
 ony persone in *presens* of his maiestie, quhaireuir his 25
 maiestie salhappin to be for the tyme sall Incur the
 pane of treasone, and salbe accused thairfoir as *com-*
mittaris of treasoun and liesmaiestie: And siclyke
 statute and ordanit That quhasaeuir sall strik or hurte
 ony tyme heireftir ony persone befoir *our* soveran lordis 30
 iustice or his deputtis sittand in judgement: Or within
the Inner 3et of the kingis palice quhair his maiestie sall
 mak his recydenche for the tyme Or within the uttir tol-
 buith of Edinburgh the tyme that *the* lordis off sessioun
 sittis for administratioun of justice sall Incur the pane 35
 of death and salbe accused cryminallie thairfoir. And
 als statute and ordanit that quhasaeuir at ony tyme heir-

eftir sall strik or hurte ony persone befor the baillies
of brughis, *commissaris*, *shireffis*, baillies of royalties
and regalities, and uthir inferiour iudges within this
realme they or ony of thame sittand in iudgement sall
5 pay ane hundreth pundis to be Employed at *the* dis-
cretioun of the iudge offended and Inpresoned in thair
presones during the iudges will, but preiudice alwyis
of the *privileges* granted to *the* provest and baillies
of burrowes, or quhatsumevir inferiour iudges: And
10 last it wes statute and ordanit That quhasaevir sall strik
or hurte ony iudge *withtin* this realme sittand in judge-
ment sall incur the pane of death and be accused
criminallie thairfoir:

And in lykemaner the said King James the sext
15 in his maiesties sextent parliament the fyftent day of
November The 3eir of god ane thowsand Sex hundreth 1600.
3eir is act fourt Intitulat Anent Invading and persewing
of counsalouris Makand mentioun That *our* said soverane
lord and estaittis of [*that*] parliament understanding that
20 divers of the lordis of his hienes secreit counsall and
sessioun and utheris of his majesties officeris for the
discharging of thair bundin dewitie in his hienes service
Incurris the haittred Indignatioun malice and feid of
sindrie persones *quha* oftymes querrellis thame without
25 ony iust cause Thairfoir statute and ordaned That
quhatsumevir persone in tyme *cuming* Invadit or persewit
any of his hienes sessioun secreit counsall or ony his
maiesties officeris It beand verifiet and tryed that ony
of *the* saidis counsallouris sessionaris and officeris wes
30 persewit and Invaded for doing of his hienes service
salbe punished to *the* death. Vid. Jac. 6. parl. 16.
[1600] foirsaid act. 26. Intitulate Aganis persones quha
persewes utheris within ane myle of his majesties resyd-
ence. And fynallie the said King James the sext in his
35 fourtent parliament the aucht day of Junii The 3eir of
god ane thowsand fywe hundreth fourre scoir and four- 1594.
tene 3eir is Act twa hundreth ellevin act Intitulate Anent

the privileges of the college of iustice. Quhairby his maiestie *witht* avise of his estaittis in that parliament Ratified apprevd and confermed all and quhatsumeuir privileges liberties [and] Immunities grantted of befoir be his maiestie and his maist nobill progenitouris to *the* 5 Chancellare and haill senatouris bay~~tht~~ spirituell and temporall and memberis of the college of iustice for manteinance of thame in thair *persones* honouris and dignities, and for bruiking of thair landis rentis benefices and pensionis in sic forme as is *contentit* in the first 10 erectioun of the said college and as *thai* and thair predi-cessouris hes bruikit and possessit sensyne Conforme to the ratificatioun thair of in parliament Or in ony utheris actis lawes statutis maid be his maiestie or his predi-cessouris in *favouris* of *the* said College senatouris and 15 memberis thair of in all poyntis. Nochtwithstanding quhatsumeuir actis or *constitutionis* that may appeir to derogat the same.

[*Folios 72-74 and two unnumbered folios blank.*]

Quhosoevir wald iudge a richt, moist have the ballance in hand, for judgment moist be done equalie, and without the exceptioun of persones: thair is no thing moir wicked, then to ressave brybis, and budis in iudgement; because, giftis dois blind the harte of 25 the vys, and subvertes the wordis of the richtious; for in quhat wechtis thow iudges, it salbe iudged unto *the*. Quhairfoir O iudge, feir god the iudge, leist quhillis he iudgeth, thow be condempned: than honoure God, and serve him, quho is vys and all mychtie in knowlege, 30

a luifare of treuth, and observare of the samin, haitting
Covettusnes and detaisting it. Bevar thairfoir *that*
thow over thraw nocht iustice be haittred, by the quiche
malisious cavellatioun, thow pronunce a indirect sen-
5 tence aganis the pairtie haitted by the, or aithir by
corruption and gredines possest by giftis thow iudge
wranguslie, Aither 3it by feir of a mychtiare then
thyself of *quhom* thow standis in dreddowr, darrest
nocht iudge trewilie, Rather 3it for luif, quhill as for
10 freindschipsis saik, thow manteines thy freind and
supprysis thy Innimie Minister thairfoir iustice equalie
no les to puir than riche: Because all magistrattis,
quha hes greittare respect to the ane, than to the uthir
in iudgement, Or takis malyfactouris onywyis to
15 manteine and defend thame, ar fals and perjured
aganis god, the king, and the liegis of the kingdome.
Stat Will. c. 27. de Maritag. c. 2. et. 4. / Stat. Rob. br.
c. 2 leg. mal. mak. c. vlt. in fin. etc.

Off the [quhilk] forme and ordoure, of procese, in Fol. 76.
20 civile actionis, befor the saidis lordis of counsall and
sessioun, and utheris civile judges within this Kingdome
of Scotland: these notis and observationis may be
observed, and remarked as followes, *quhilkis* ar
contenit in fourtie tyillis, quhairof this Immediatlie
25 befor set down alreddie is the first tytill, and the
second and rest followes heireftir, with the prefaces and
annotationis of everie pairt and divisioun thair of etc.
[as is heireftir mentionate]

[Nota to
insert at *this*
pairt. as is
writtin on
the preced-
and first leif
Begynnand
King James
the fyft.]

The second tytill contenis. Cap. 1.

30 The pairtis of ane procese.

All procese led and deduced befor the saidis lordis
of counsall and sessioun hes thrie pairtis. 1 The first

2 fol. 110.
Tit: 19.
3. fol: 132.
Tit 22.¹

is the *summonis*. 2 The secund is *litiscontestatioun*,
3 The thrid is the sentence definitive, etc.

The thrid tytill Off clerkis and writtaris Con-
tenand nyne chaptouris

Admissioun of clerkis. Cap. 1.

5

All billis and supplicationis, or petitionis *quhairupon*
summonis procedis ar writtin be clerkis, ordourlie
admittit, Of *the quhilkis* clerkis sum ar *presentit* and
substitute be the clerk register to serve in the tolbuith
as scribe of the counsall: quha may be alsua writtaris 10
to the signet, gif it pleis the lord secretare to admit
thaim Utheris ar admittit be *the* said secretare, and ar
ordiner writtaris to the signet, Becaus clerkis ressavit
and admittit be the secretare onlie, and nane utheris
suld writ all billis, and signatouris that passis *the* signet. 15

Aith of clerkis. Cap. 2.

Item all clerkis of the counsall, and signet, salbe
sworne to exerce, thair office lauchfullie and diligentlie,
and nane of thame sall reveill or mak manifest to ony
man quhat they writ or dois for ane uthir, bot sall keip 20
all close and secret. *Statute* be *the* lordis. 27 Maj 1532.

Clerkis servand in the uttir house c. 3.

The thrie ordinaire clerkis, quha ar deputtis to the
clerk register, be thair coursis and ordine successivo,
sall serve in the uttir house and sall caus *the* Minuttis 25
of all exceptionis, and defenssis proponit be the
procuratouris be weill and distinctlie writtin be thame
selfis and thair servandis: And incais ony advocate

¹ *Lege* 35.

requyre to have the minuttis red to him, the clerk or his *servand* sall obey and do the *samin*. Statute be the lordis .10. *Januarii* 1604.

5 Writting and subscriyving of billis and uthir
evidentis. Cap. 4.

Item that everie clerk to the signet, Cause writ thair billis and *letteres* with guid writting & guid spelling, and nocht on synkand paper, And that all thair billis be writtin conforme to the practique, and subscriyvit
10 with thair awin handis: etc. And quhat *answer* they gett to thair billis that they be content thairwith, and keip the auld stylis of the realme, And forther the lordis gevis *command* to the delyverare of the billis, that na billis be ressavit, bot that, *quhilk* is subscriyvit Fol, 77.
15 at the taill be ane *writer* to the signett. Statute be the lordis. *penultimo* *Octobris* 1564. And ratiffeit be thame *ultimo* *Aprylis* 1565. and also Statute 26.¹ *Octobris* 1577.

Item forther be act of parliament, That all writtaris
20 inserte thair names in the bodie of all [evidentis or] writtis of wecht or Importance to be writtin be thame *utherwyis* the *samin* to mak na fayth. etc. Jac. 6. parl. 13. act. 175 / 21 Julij 1593.

25 Writting of billis of suspensioun and advo-
cacioun. Cap. 5.

Item it is statute, that all clerkis and writtaris to the signet, sall writ thair billis [and letteris] of suspension and advocatioun, and utheris of [the] lyke nature *contening* diverse ressones in guid forme, and that the
30 ressones be separate, and distinct be Numeris alsweill in the bill and *letteres* as be takynnys of greit *letteres* in the

¹ 25th October in University Library copy.

begynning of everie ressoun. Statute be *the* lordis.
22. Junij. 1589.

Faultis to be eschewed in writting of billis :
Cap. 6.

Item that *thair* be na Rasure, nor writting on the 5
Mergin, nor interlyning, in the conclusionis of the billis,
nor in the delyverance on the bakis of thame, And that
the delyverance on the bakis of billis be writtin onlie,
be [the] clerk delyverare of thame or his servand
utherwyis the keipare of the signet nawyis to pas *thaim*. 10
Statute be the lordis. 22 Junij 1586.

The auld style to be keipit. ca. 7.

Item it is statute, that the clerkis writtaris to the
signet, sall forbeir to use any new strange termes in
thair billis or *letteres*, bot that they follow the ancient 15
lovabill stylis used of befoir. Statute be *the* lordis. 14.
Augustii 1590.

Cutting and altaring of summonis. c. 8.

Item it is statute, that the clerkis to the signet sall
nawyis presume to Cutt, mend, or alter ony summonis 20
or *lettere*, eftir the samin be signettit, and gif ony dois
in the contrare, he salbe punished as committare of
falsett. Statute be *the* [lordis] [14] Augustii 1590.

Writting of executionis and Indorsationis.
Cap. 9.

25

Item the clerkis sall writ thair *letteres*, weill correctlie
on guid papir, To the effect [that] the executionis may
be writtin on the bak thairof, Nocht battered with uthir
paper. Statute be *the* lordis 14 Augustii 1590. Because

na *letteres* Nor *summonis*, suld be ressavit nor admittit,
except the *executionis* be Indorsate on the bak of the
same self *letteres* or *summonis*, and nocht writtin upoun
ane skrow, or louse paper, utherwyis to have na place
5 nor credeit. Statute be *the* lordis. 14. *Novembris* 1569.
.22. Junij. 1586.

The fourt Tytill
Off billis and suplicationis
Contenand fyftene chaptouris

Fol. 78.

10 *Summonis withtout* billis. Cap. 1.

All *actionis* and *pleyis cummis* in befor the lordis at
the instance of the perseware be ane *summonis* as he
pleis to lybell without ony bill or suplicationun maid or
gevin in be him to the lordis, Sic as *reductionis*,
15 *redemptionis*, *Transferringis*, *eiectionis*, *spulzeis* nocht
beand privilegit, anent the terme of *the comperance*
Summonis for payment of dettis, *Recognitionis*, *Dis-*
clamationis, *purpresture*, *actionis* of *warrandice*, And
summonis for singill and dowbill awaill of *mariaige*
20 *Summonis* anent tynsell of *superioritie* etc.

Summonis be, billis. Cap. 2.

Uther *actionis cummis* in be *summonis*, Conforme to
ane bill and suplicationun at *the* persewaris instance,
writtin and subscriyvit nocht onlie be ane ordinaire
25 clerk and writtare to the signet, bot also be the lordis
deliveraris of the billis, and the clerk of the billis, Sic
as *Removingis*, *delivering* of *evidentis*, *housis* or of
frie persones / All *suspensionis* and *advocationis* all
privilegit *actionis*, All *executoriallis* upoun [execute]
30 *preceptis*, direct be *commissaris*, [schireffis] *admirallis*,
execute *decreit's* Of *provest* and *baillies* of *burrowes*
Royall and *regale* All *summonis* of forther diligens,

aganis witnessis *quha* ar contumaces and compeiris
 nocht, All reductionis at the kingis advocattis [instance],
 Contenand ressonne of Improbatioun, or falsett, or con-
 tening na falsett [or Improbatioun], gif the partie
 defendare be absent furth of the realme, horningis on 5
 decreittis, All summonis, founded upoun interdictionis,
 inhibitionis, arreistmentis, deforcementis, Comprysingis,
 Poyndingis, all actionis accessoure to decreittis, *letteres*
 Conforme upoun richtis of benefices, *letteres* to put
 decreittis to executioun, *letteres* to pronounce, extract, 10
 and draw furth decreittis and processis Charges to grant
 and pas commissionis and to direct brevis furth of his
 maiesties Chancellarie Charge to ane to entir air to his
 predicessoure, *letteres* aganis donatouris of escheittis,
 to mak payment to the Creditouris of the dettis quhair- 15
 upoun onlie the gift procedis. All cryminall *letteres*
 befor the iustice generall Charges of lawborrowes.
letteris upoun actis of adiornall for assythment. to be
 liquidate be the lordis for crymes committit be Malyfac-
 touris, All *letteres* granttit to Ministeris upon ten dais 20
 for payment of thair stipendis, and upon designatioun of
 thair gleibis, and mansis, and reparation of kirkis and
 kirkzardis Transsuming of evidentis, Contravensionis,
 delyvering of consignit silver All *letteres* for expenssis
 of pley, Witnessis and protestationis All *letteres* to heir 25
 commissionis, and exemptionis granttit All actionis
 aliementare, All *letteres* to heir contractis [bandis] &
 obligationis *contenand* to be regiſtrate, All actionis of
 violent proffettis eftir geving of decreittis of removing
 as alsua all actionis anent [the] succeding in *the* vyce 30
 of utheris.

Fol. 79.

Delyvering of billis quhen
 the lordis sittis. Cap. 3.

[Item] It is statute, devysit, and ordaned be the
 lordis of counsall and sessioun, That in all tymes cuming 35

all the billis be delyverit be the clerk deliverare of the billis in this maner, That is to say in the tyme of sessioun, on the dais that the lordis sittis in the counsallhouse, and that the delyverance of billis be his hand wreit or his seruand, and he to answer for the samyn, And that na uthir writtare, have poware to writ ony delyverance thairon bot he allanerlie.

Keipare of the signet. Cap. 4.

And that the keipare of the signet, answer nocht with the signett, to ony lettere gevin on ony bill, bot gif the delyverance of the samyn be writtin be the said clerk of the billis, and subscrivit be him allanerlie at the end of the bill.

Delyvering of billis quhen the lordis sittis nocht. Cap. 5.

And on [all] the dais, quhen the lordis sittis nocht, in tymes of sessioun, that Athir the Chancellare, president, or clerk of register or any ane of thame witht any uthir senatoures, and sall delyver the saidis billis.

Delyvering of billis in tyme of vacance. Cap. 6.

And in tyme of vacance, siclyke gif thair be samony lordis in the toun of Edinburgh and failzeand of the said nowmer. they that happynnis to be present, quhat nowmer that evir they be of, sall delyver the saidis billis, Concerning all materis, for the quhilkis delyverance they salbe haldin to answer, and to that effect, the clerk keipare of the signet, sall keip and produce the saidis billis witht thair delyverance foirsaidis, to the lordis at the first day of the sessioun eftir everie vacance. Statute be the lordis. 27. Maij 1532.

Delyvering of suspensionis in tyme of
vacance. Cap. 7.

Item the lordis of counsall, considering that *the* liegis. Craving suspensionis in tyme of vacance ar sum tymes stayed, and put in danger of horning Be ressonne, 5 that sic billis ar delyverit be twa [lordis] of the ordinare nowmer, and 3it ar stayed for want of the subscriptionis of the Chancellare, or president or clerk of register to the greit, hinderance of *the parties* and sum disgrace to the uthir lordis subscryvaris all *the* lordis haifand 10 *the* lyke authoritie in sic caissis. Thairfoir the lordis present in ane voce declairis, and ordanis, that in tyme of vacance. *the* billis subscryvit be ony twa of thair ordinare Nowmer, salbe ane sufficient warrand to *the* clerk of *the* billis for ressavng of cautoun, or consigna- 15 tioun, and passing and delyvering of *the* samin billis, and in lykemaner to *the* keipare of *the* signet, for passing *letteres* thairupoun Nochtwithstanding that these billis be nocht subscryvit be the chancellare, or president, or clerk register, *quhilkis* casualie may be all 20 absent, qwhen necessarlie the billis of sic complinaris suld be ansurit. Statute be the lordis. 14 Augustii 1593.

Fol. 8o.

The presenting and price of billis.

c. 8

25

Item the lordis ordanis, alsone as the billis ar gevin in to the clerk thairof, to be delyverit that he present the samin to the lordis to be red incontinent, and in absens of the said clerk, to the clerk that salbe depute thairto, haifand poware to that effect. And that he ressave na 30 mair dewitie for delyverance of everie bill bot foure pennnyis allanerlie, And gif he takis mair thairfoir he salbe callit and accused befor the saidis lordis. Statute be *the* lordis .3. Junij 1533.

Delyvering of previlegit billis. C. 9.

Item it is statute that na billis be delyverit. outwith
the sessioun and tolbuith, the sessioun beand sittand,
Except previlegit materis ubi periculum est in mora.
5 Statute be the lordis .13. Junij 1532.

Clerk of the signet writter of billis Cap. 10.

It is statute, that na clerk of the signet enter in the
counsallhouse. for delivering of any billis, bot that all
delyverance of billis be writtin be the clerk of billis:
10 Statute be the lordis .27. Maij 1532.

The writtare of the bill suld subscribe
the samyn. Cap. 11.

Item to provyde that na clerk of the billis, frustrate
ane uthir of his labouris, and proffet. It is statute, that
15 everie clerk to the signet, quha writtis ony billis mark
and subscribe the samyn with thair awin name within the
bill, and that the samyn salbe delyverit to him agane, or
to the pairtie, quhilk of thame cummis to ask the said
bill, They payand to the clerk of the billis, for the
20 deliverance and his labouris foure pennyis. Statute be
the lordis. 27. Maij 1532. Jac. 5. parl. 5. act. 61.

The tyme of delyvering of billis c. 12.

It wes, ordaned, that the lord[is] appoynted, for the
billis with [the] clerk of the samyn, sall cum to the tolbuith
25 Ilk day that the lordis sittis at aucht houris in the morn-
yng, to the effect that all billis of difficultie may be re-
ported Immediatlie eftir the interloquoutouris, and sic
billis as salbe gevin in, eftir nyne houris, to be reserved
and nocht red, quhill the next day. Statute be the lordis
30 10 Janurairi 1604.

Reiding of billis *quhilkis* ar delayed.'

C. 13.

That everie day in the Inner house the billis salbe first red, *quhilkis* ar deferred the day preceding, to be hard in *presens* of the haill lordis. Statute be the 5 lordis. *penultimo Februarii* 1604. 3 Junij 1579.

Delyvering and subscription Off billis.

Cap. 14.

Fol. 81. Eftir the billis of the day preceding be hard & ansuered in the Innerhouse, Twa of the lordis *witht* the 10 clerk, sall pas and delyver the billis for that *present* day, that requyris nocht to be hard in *presens* of the haill lordis, and the delyveraris to subscryve the samin And these that ar red in *presens* of the haill lordis, to be subscryved be the Chancellare or president. Statute be the 15 lordis. *penultimo Februarii* 1604. 3 Junij 1579.

Billis upoun obligationis and decreittis. Cap.

15.

It wes statute, That in all tymes cuming, quhen ony pairtie seikis *letteres*, Conforme to obligationis, decreittis 20 of the lordis, or of inferiour iudges, that the suittare declair in his bill and supplicatioun, the speciall heidis, *quhilkis* ar nocht fulfillit to him, and na generall supplicationis to be ansuered without speciall declaratioun as said is. Statute be the lordis. 16 Apryl's 1580. 25

The fyft Tytill contenand C. 2.

Off Summonis. Cap. 1.

The writting and signetting of the *summondis*.

The billis beand wreittin be ony ordinaire writtare to the signet, *witht* advise of ane advocate, or without his 30 advise, as the pairtie pleasis, and being gevin in to the

lordis be the clerk of the billis, and fund ressonabill,
The lordis quha ar depute be *the* hail lordis ouklike
per vices delyveris passis and subscrivis the samin, lyke
as the clerk of the billis siclyke subscrivis *the* samen,
5 and redelyveris thame to *the* clerk of the signett writtare
thairof, quha writtis and subscrivis *the* summonis,
conforme to the tennour of the billis in competent and
dew forme, and passis or sendis *the* summonis, to the
keipare of *the* signet, depute be *the* secretare, quha res-
10 savis the bill subscrivit as said is, for his warrand, and
thaireftir affixis the signet to the summonis, and thaireftir
delyver[is] it to the clerk, or to the pairtie to be execute
quhen he plesis.

Sex poyntis of ane summonis. C. 2.

15 [The summonis, or lybell, suld contene these speciall
heidis and pairtis.] 1 The Names of *the* iudge at
quhais command the summonis is raisit and direct.

2. The name of the perseware at quhais instance *the*
defendare is chargit and summonit.

20 3. The name of the defendare quha is summonit and
persewit.

4. The cause and mater, for the quhilk *the* summonis
is rasit [at the instance of *the* perseware and defendare
charged.]

25 5. The day and tyme, at *the* quhilk the defendar suld
compeir.

6. The place quhair the courte is haldin, and in the
quhilk the defendar suld compeir, lib. 1. c. 6. et .8. Jac.

1. parl. 9. c. 112. quoni. attach. c. 64. l. 5. C. quand. et
30 quomod. iudex.

The sext Tytill of the summonis of con-
tinuatioun contenand. 5. Cap.

Fol. 82.

The cause and forme of continuatioun. C. 1.

To the effect the pairtie defendare, may be the bettir
35 certified; The lordis usis to direct twa *summondis* for

the day of comperance contenit in the first *summonis*, being bygane, the *summonis* is called in *the* *tolbuitht* and put under continewatioun, in absence or presence of the defendare, and ane uther day is assigned to *the* *quhilk* he is ordaned to be summoned at *the* persewaris 5 instance, upoun the *quhilk* ordinance ane iudiciall act is maid, and the *samin* beand subscrivit be the clerk register, the secund *summonis* is rased thairupoun, [and the defender is ordaned to be summoned], with certifica-
tioun and he *compeir* nocht the secund day of com- 10
 peirance, to defend for himself in the cause, the lordis will *proceid* & do iustice quhidder he *compeir* or nocht as effeiris of law. l. in peremptorio. 71. ff. de iudic. l. 2. C. quomod. et quand. iudex.

Summonis suld be put under continuatioun 15
 iudicialle. C. 2.

The lordis of counsall and sessioun considerrering how that for the greit weill and ease of *the* kingis liegis, and to *the* effect that they mycht be *the* bettir certiorate of divers actionis intended at *the* instances of pairties 20 aganis utheris hes appoyntted sindrie actionis to abyde, by and attoure *the* first *summonis* ane uthir secund *summonis*, and continewation that parties as said is, be the citatioun maid be the first *summonis*, may of new thair-
 eftir be summoned, and cum the bettir prepared to pro- 25
 pone *thair* defensis competent to thame aganis the *samin*; *quhilk* continuatioun of the said *summonis* hes bene used in tymis bygane in sum poynt, disconforme to *the* first institutioun, and ordoure observed thairanent, *quhairas* the principall *summonis* wes wount of auld 30
 to be called first iudicialle, and thaireftir put under continuatioun that *the* advocattis of the pairtie defendare mycht be foirsene of the calling of the first *summonis*, and continewatioun thair of, And the lordis on the uther
 pairt persaving that the continuatioun of the *samin* in 35

the clerkis chalmer privlie without the knowlege of the pairtie defendare in maner as the samin is presentlie used, to be werray preiudiciall to the pairties, nocht beand sa weill foirsene thairby quhen thair actionis ar
5 to cum in iudgement to be decyded, as utherwys gif the first ordoure war observed; Ordanis all and [sindrie] quhatsumevir summoundis, lettiris, supplicationis, and [all] utheris quhatsumevir, *quhilkis* aucht to abyde continewation to be callit judiciallie; and eftir the calling
10 of all *the parties* names alsweill [the] defendares as [the] persewares *contentit thairintill* in iudgement to put *the* samin under continewatioun & insert *the* samin in the commoun Minute buik *witht the* rest of the actis, to the effect *the* samin may be pairtit, and devydit according to
15 *the* accustumate forme amangis *the* wreittaris and scribis of *the* counsall, and in cais ony summonis, lettiris, supplicationis, and utheris *quhilkis* aucht to abyde continuatioun as said is be continued utherwyis declairis the Fol. 83.
samin to be Null as gif it had nocht bene continued, and
20 that the samin salbe of new lauchfullie continued agane befor the perseware sall have ony procese thairupoun, According to *the* ordour presentlie set down. Statute be the lordis. [2]4 Maij 1595.

The summonis of continuatioun is peremptoure.

25 Cap. 3.

The second summonis, (*quhilk* is called [the] summonis of continuatioun, because the first and principall summonis is continued be it) is peremptoure, and is used in sik actionis, quhen *the* lybell requyris lauchfull
30 probatioun, and the perseware uses na probatioun of the first summonis instantlie at the bar. and is called summonis of continuatioun, Because as said is, be the samin, the principall summonis and cause is continued, and delayed to ane certane day or to ane secund terme
35 or tyme of comperance.

Executioun of [the] *summonis* of continuatioun.

Cap. 4.

The samyn *summonis* of continuatioun, suld be execute aganis the defendare, in the samyn forme & maner, as *the* first *summonis* personallie or at his 5 duelling place, bot it may be execute within ane schortare tyme, or space, nor twentie ane dais, sic as sex dayis, or uther space of tyme, langare or schortare, *conforme* to the distance of the place, quhair the defendare duellis and makis his resydence. c. quoniam. II. 10 et ibi gl[o]. verb. dilationes de probat. extr.

Its execu-
tion : fol.
82.

Citation for delyvering of evidentis. Cap. 5.

fforsamekill as be *summare* processe grantted for delyvering of evidentis upoun ane simpill¹ charge, Or ellis to compeir and schaw a caus quhy etc. without forther 15 Cognitioun takin in the mater. The pairtie nocht compeirand is decerned to delyver the saidis evidentis, and therethrow is brocht to sic Inconvenient, that quhither they have had *the* saidis evidentis or nocht, they man ether find out, and delyver the samyn to the *perseware* 20 Or ellis the enteres that may be liquidate, and estimate throw *the* want of the saidis evidentis war the samyn Nevir sa greit / Therefoir the lordis of counsall and session Ordanis in tyme cuming All sic charges for delivering of evidentis, to be execute be ane officer of 25 armes; the pairties beand personallie apprehendit and ane copie delyverit to him, Or utherwys ane secund charge be ane *summonis* of continuatioun to pas with certificatioun etc. That the *partie* defendare have na iust cause to pretend ignorance, And this ordoure Anent 30 delyvering of evidentis to be observed in all tymes cuming. Statute be *the* lordis 20. Julij. 1590.

Exe-
cutioun.
vide fol :
87. Cap :
16.

¹ "singill" in University Library copy.

The sevint tytill of execution of *Summonis*
 contenand, auchtene chaptouris.

Fol. 85.

Twa kyndis of executionis. C. 1.

All *summonis* in civile actionis suld be execute aganist
 5 the defendare, personalie apprehendit, or at his duelling
 place, or upoun the ground of the landis debaittabill.
 Quon. attach. c. 3. Mod. ten. cur. c. 2. Authent. offer-
 atur. C. de litiscontest. Jac. 5. parl. 6. c. 75.

Personall executioun. C. 2.

10 Personale citatioun is quhen the defendar is *sum-*
monit at the persewaris instance be ane officer of armes,
 or be ane *shireff* in that pairt personallie apprehendit
 and ane copie delyverit to him befor twa witnessis.

Summonis at the duelling place. Cap. 3.

15 *Summonis* at the duelling place is, quhilk is execute
 at the place, quhere the defendare makis dalie resydence
 with his wyfe barnis houshald and familie, Nam un-
 iusculusque domus et familia ibj esse intelligitur ubj eius
 uxor habitat. Jac. 5. parl. 6. act. 75. l. 1. § 1. et ibi
 20 Bartol. ff. de liber. agnoscendo.

Reall execution at the ground C. 4.

Summonis upoun the ground, of the landis in contro-
 versie, is used in perambulationis, Comprysingis of landis,
 Schawing of haldingis, and sic uther actionis, quhilkis
 25 ar reall, Concerning the propertie of landis or heretabill
 service therefor Mod. ten. cur. c. 2. Quon. attach. c. 3.
 vers. 4. And premonitioun of warningis, to remove at
 the ground and parroche kirk. Mar. Reg. parl. 6. act

.39. And processis of foure domes of propirtie onlie at the ground of *the* landis allanerlie for annuellis within burrowes Royall *quhair* upon seasingis successorio now followes, *quhilk* seasing wes nocht used of auld, bot onlie the delyvering of erde and stane in iudgement 5 to the chaiplane or his *procuratour* for recuparatioun of landis within kingis burrowes for nocht payment of kirk annuellis allanerlie, and na utherwyis. Jac. 4. parl. 2. c. 20. As *the* forme and use of *Edinburgh* is.

Reall personall [or] duelling place C. 5.

10

Bot quhen ony man is sua *summonit* super fundo terrarum, Intimatioun of the *summonis*, suld be maid to him personalie, or at his duelling place befor the day of comperance Conforme to the dalie practik quon. 15 *atta. c. 25. lib. 3. c. 25.* And in premonitionis of warningis suld be on fourtie dais befor the terme of witsonday preceding Mar. Reg. parl. 6. c. 39. Bot in the saidis processis of foure domes of propirtie or annuellis within kingis burrowes. Nethir personall, duelling place, nor uther intimatioun is requisit. except onlie at 20 the ground allanerlie etc.

Fol. 86.

Citatioun of men passand furth of the realme. Cap. 6.

Gif ony man befor his departing furth of the realme is lauchfullie *summonit*, and he thereftir depart furth 25 of the samyn It is nocht necessar in leiding and deduc-tioun of the procese aganist him to *summond* him agane in that procese upoun the warning of thriescoir dais bot onlie upoun premonitioun of sa mony dais, as gif he had remanit within the realme. lib. 1. c. 8. 30 vers. 6.

Citatioun of men quha ar furth of the realme.

Cap. 7.

Bot gif he wes depairted furth of the realme befor he
wes *summonit*, he suld be *summonit* upon thriescoir
5 dais warning, for the first terme, And in all uthir *termes*
of comperance in the procese he suld be *summonit*
according to the *commoun* course and ordoure of law.
Mar. Reg. parl. 6. act. 32. And this to have place in
Civile *caussis* and *actionis* allanerlie, bot nocht aganist
10 *witnessis*.

The cause quhairfor ane is *summoned*. C. 8.

The *summonis* suld contene the cause, quhairfor the
defendare is challanged, and the defendare sould be
certified thairof, that he beand lauchfullie Certiorate
15 may have perfyte knowlege of the *actioun* intentit
aganist him. lib. 1. c. 6. vers. 11.

The day of compeirance. Cap. 9.

Ane ressonabill day suld be assigned to *the* defendar
to compeir, *quhilk* in all *summonis* *peremptour* of all
20 *actionis*, *accustomabill* to cum in befor the king and
his counsall is abbridged to twentie ane dais. Jac. 3.
parl. 1. c. 6.

Recent Spulze. Cap. 10.

Bot in *actionis* of Recent *spulze*, quhair *the* *summonis*
25 is raised be him, quha is *spulzeit*, within fyftene dais
eftir the *committing* of the *spulze*, The *samin* *summonis*
may be execute upoun fyftene dais aganist *the* *committare*
of the *spulze*. Jac. 4. parl. 6. act. 65.

Copie of the *summonis*. Cap. 11.

All officeris or *shireffis* in that pairt, quha *summonis* ony partie, suld delyver or affix ane copie of *the letteres* upoun the dur of the pairtie *summonit*, Conforme to the ordoure of *summoning* of all persones in civile actionis 5 persewed be parties. Jac. 5. parl. 6. act. 75.

Subscription of the copie. Cap. 12.

Quhilk copies of *summonis* and *letteres* suld be subscriyvit be the officer executare thairof. Jac. 6 parl. 12. act. 139.

10

The stampe of the executor. Cap 13.

All mairis, and officeris, alsweill of fie as in that pairt, quha executis the king his *majesties letteres* and charges, or the *preceptis* of *shireffis*, Stewartis or baillies, suld have ane signet and in it gravin, the first *letteres* of 15 *thair* names and surnames, or sum uthir thing that salbe universallie knawin, to be *thair* signet, with the *quhilk thai* sall signet all *letteres* and *preceptis* execute be thame, and sall mak ane recorde or abrydgement of *thair* executioun of the *summonis* Contening the forme 20 and maner thairof, and *the* names of the witnessis quha war *present* the tyme of the executioun, *the quhilk* suld be stampit be thame uthirwyis they may be depryved of *thair* office, and the executioun mak na faith. Jac. 3. parl. 5. act .32. Jac. 5. parl. 6. act 74.

Fol. 87.

25

The day of the executioun, or of the comper-
ance suld be frie C. 14.

In all *summonis* execute upoun twentie ane dais or schortare space Athir the day of the executioun of the *summonis*, Or the day of the compeirance of the defen- 30 dare suld be frie, and suld nocht be compted in the

Numer of the dais prescryved be the law. lib. 1. c. 8.
[vers] 12.

Indorsatioun. Cap. 15.

Because the recorde of the executionis is wreittin
5 upon the bak of the summonis (indorso summonitionis)
It is thairfoir called indorsatioun. Stat. David. 2. c. 18.
Lykeas in the commoun law, it appeiris to be called
Citatio and suld be maid in writ. c. quoniam. 11. verb.
citationes de probat. extr.

10 Execution of summonis for delyvering of
evidentis. Cap. 16.

Citacon
fol. 84.

All summonis, for delyvering of evidentis suld be
execute be ane officer of armes, and ane copie delyvered
to the partie personallie apprehended, Or ellis the sum-
15 monis suld be put under continuatioun. Statute be the
lordis 20. Julij .1590. as said is.

Acceptatioun of the executioun or summonis. Cap. 17.

The lordis declairis that fra this furth fra ony execu-
20 tionis of summonis, or preceptis of warning, beis accepted
be the procuratouris, there will na place, nor libertie,
be granted to amend or reforme the samyn, Bot quhair
informalitie or vitious executionis, sall appeir, the lordis
will respect thame as accordis of the law without favoure.
25 Statute be the lordis 3 Januarii 1586.

Anent the charge of aperand airis To entir
airis to there predicessouris and Anent the
tyme of the executioun of the summonis, and
action aganis thame Cap. 18.

30 fforsamekill as in tymes bygane, thair hes dyverse
actionis, letteres, and summonis, bene raised execute &

persewed, aganist the appeirand airis of thair pre-
 dicessouris deceissed befor the expyryng of 3eir and
 day nixt eftir the death of thame, to quhome they ar
 appeirand airis; And the lordis of counsall haifand
 consideratioun of the privilegis and liberties, grantted 5
 to the saidis appeirand airis aganist thair predicessouris
 creditouris, for the space of 3eir and day nixt eftir thair
 parentis deathis mentionate in the twa actis of parlia-
 ment, the ane the thriescoir sextene act of *the* sext
 parliament of King James the fourt, and the uthir the 10
 ane hundreth and sext in Numer, of the sevint parlia-
 ment of King James the fyft, and for cleiring of the
 samir actis: The lordis of counsall Statute and declaired,
 that the foirsaid appeirand airis may be chargit to entir
 airis to thair defunct predicessouris, within fourtie dais 15
 eftir the charge at *the* instance of ony persone haifand
 enteres thereto, Athir befor the expyryng of the first
 3eir and day nixt eftir the death of thair predicessouris,
 Or at any tyme eftir *the* expyryng of the said first 3eir
 at thair plesoure And als fand and declaired, That in 20
 tyme cuming It sall noch be lauchfull to ony persone,
 to raise nor execute ony summonis, Nor intent ony
 actioun upoun the foirsaid, charges aganist the saidis
 appeirand airis, during *the* space of ane haill 3eir com-
 pleit, nixt and Immediatlie following the deceis of thair 25
 predicessouris, to quhome they ar chargit to entir as
 appeirand airis, And will grant na processe heireftir upoun
 ony *letteres* or summonis daittit intenttit or to be intenttit
 be ony persone or persones aganist the saidis appeirand
 airis, within the space of ane 3eir and day nixt eftir the 30
 death of thair predicessouris, And declairis that they
 will follow and observe this *present* act and ordinance
 in all tyme cuming. Statute be the [saidis] lordis .18.
 Junij¹ 1613. vid. Tit. 38. of comprysing of *Immovabill*
 guidis. c. 10 vid. Jac. 3. parl. 5. c. 36. vid. Jac. 5. parl. 35
 7. c. 106.

Fol. 88.

¹ 8th June in University Library copy.

Item the lordis of secreit counsall and sessioun
 Ordanit and commanded, That no proces be grantit
 befor inferiour iudges In the first summonis, bot upoun
 lybellit preceptis, and Citatioun of fyften dayis warning
 5 Conforme to the act of parliament, and ordanit these
 presentis to be Imprentted. *Quhilkis* with twa utheris
 articlis thairanentis in the Imprenttit actis Jac. 6. parl. 23.
 4 Augustii 1621. act befor the 20 act vid. Jac. 6. parl.
 23. act. 27 .4. Augustii 1621. Intitulatt act Anent com-
 10 prying frome appeirand airis etc. vid. Comprying h.
 lib. c. 2.¹

The aucht Tytill

Of the ordoure of calling of actionis contenand
 24 cap.

15 Roll of actionis in the Innerhouse Cap. 1

It wes statute be the lordis of counsale and sessioun
 be command of his maiestie for the better expiditioun
 of iustice, that in the begynning of Ilk sessioun, the
 chancellare or president, [sall] cause ane Roll or
 20 Cathalog, to be maid of all causes, to be callit, and
 that the causis, *quhilkis* war called, and left undecyded
 in the formare sessioun salbe first in the roll, The rest
 to be takin in as they salbe presenttit, and gevin in be
 the pairties or there procuratouris, to be added to the
 25 said roll, And that na cause *quhilk* is anis called, salbe
 put out, quhill it be put to sum end, And quhatevir
 cause is left at *the* ane day that the samin cause be
 preceislie called the nixt day. That *the* said Roll be
 affixt, the first day of Ilk monetht, quhairby all parties
 30 may be suir the tyme of *the* calling of thair action, and
 that this ordoure be preceislie keiped, as the
 Chancellare and president wilbe ansuerabill to the

¹ 12 in University Library copy.

kingis maiestie. *Statute* be *the* [saidis] lordis .20.
Januarii 1604.

Actionis beand called suld be put to ane
 end. Cap. 2.

It wes statute be the lordis, That sic actionis as ar 5
 uncalled, ane oulk, salbe first of all put to ane poynt
 in the nixt oulk, in there awin ordoure, and on there
 awin dais, befor ony new thing be takin in. *Statute*
 be the lordis 4 Junij: .1586.

Fol. 89.

Calling of actionis according to the
 dais of the oulk. Ca. 3.

10

Item it is statute, that all causis salbe called and
 decyded preceislie, alsweill in the uttirhouse as Inner-
 house upon the dais of the oulk, *quhair* unto they ar
 propir, As upoun Monnonday Reductionis, trans- 15
 ferringis, tynsall of superiorities, upon tyisday, wednis-
 day, and furisday, Recent spulzeis, eiectionis, actis
 of adjornall, suspensionis, (nocht heireftir excepted),
 Removingis, Advocationis, actis civile and prophane,
 dowble poyndingis, horningis, Improbationis, warrandice, 20
 transsumyng of evidentis, controventionis, delyvering of
 consigned silver, To heir *commissionis* and exemptionis
 granted, Actionis accessoure to decreittis, Upoun fryday
 the causes of the king, Strangeris and the pur. Upoun
 Setterday the prelattis, the lordis and memberis of the 25
 sessioun, and concluded materis to be advised, And
 upoun wednesday and, fryday the causes of [the]
 Ministeris and schollaris, alsweill *quhair* they ar per-
 sewaris as defendaris, seikand protestationis, except,
 quhen ane mater is Nocht put to ane poynt ane day, It 30
 sall begin at the nixt day, and gif thair be nocht *materis*
 propir for that day, that all privilegiat materis, that
 abydis nocht dyet and tabill, be gevin in everie day,

with *the* actis quhair witnessis ar nocht *present*, be Rollit,
markit, and producit, the day of the Ingeving thereof,
send but and called according to the prioritie of the
presenting and Ingeving of thame, Except *letteres* for
5 delyvering of frie persones housis' fortalices, delyvering
of evidentis, *letteres* conforme, actionis, aliementer,
actionis to heir contractis obligationis registrat, billis
and suspensionis, *quhair present* obedience is offerred
to desist and ceis, Or the haill money offerred, or [the]
10 evidentis, consigned, violent proffettis eftir the geving
of decreittis of removing and succeding in the vyces, to
be callit daylie in the uttir house as they are gevin in,
and to abyde na roll. Statute be *the lordis* .23 Junij
1579.

15 Privilegiat materis. Ca. 4.

And siclyke, that the prelattis [materis], and the lordis
that payis contributioun to the College of iustice salbe
ay privilegit, and have procese with the privilegit materis
foirsaid, ay as they occur, and nocht to be rolled up
20 bot to have *summare* and haistie procese. Statute be
the lordis .13. Junij 1532.

Calling of actionis for the dais of
the oulk. Cap. 5.

It is deuysed and ordaned, that all billis, actis, *sum-*
25 monis, copies of *summonis*, and utheris wreittingis,
desyring iustice, *quhilkis* ar gevin in be ony pairtie, on
monnonday gif they may nocht be all called that day
salbe called first on tyisday, And siclyke all [that restis]
on tyisday, salbe first called on wednesday thereftir, And
30 sua consequentlie, everie day of the oulk, And that everie
dais *letteres*, be noted on the day [that] they ar gevin in,
and to be ordourlie called, and procese to be led on *the*
first, that ar first gevin in, and produced, and ane ticket

or tabill to be maid heirupoun gif neid be. *Statute* be
the lordis .13. Junij 1532.

Fol. 90.

Ordoure of the Innerhouse. C. 6.

Item eftir the lordis ar enterit, and sittin doun, and all
the house Isched, that all billis be red and sped, and 5
gif there be ony actis of continuatioun of procese begun,
that the samin be nixt called, And fra tyme the lordis
begin to call ony actioun, or act of *continuatioun* that
na billis be ressavit nor red, And fra tyme ony sum-
monis be called be the tabill, that na act of *continua-* 10
tion be called for that day, And that all parties or
thair procuratouris, delyver to the Chancellare, or
president there actis, and *letteres* of continuatioun befor
they entir in the tolbuith or Incontinent thereftir, at
the charge or warning of ane maiser. *Statute* be the 15
lordis .27. Maij 1532.

Lordis of the uttirhouse. Cap. 7.

Item at aucht houris dalie in *symmer*, ane of *the* lordis
sall pas to the uttirhouse, and first call all *the* actis,
quhair the witnese ar *present*, eftir litiscontestatioun, or 20
pairties warned to gif thair aithis, Nixt to call *the*
tabillis, according to thair awin ordoure, and dais, Then
to call the Roll propirly belangand to that day *Statute*
be *the* lordis .23. Junij 1579. Ane new act or ordin-
ance Anent *the* uttirhouse. *Statute* be the lordis .17. 25
Novembris 1610. vid. *infra*. Tit. 26. c. 11.

The lordis of the uttirhouse suld nocht be
called to voit in *the* Innerhouse. C. 8.

[Item] It is statute that *the* lordis ane or ma ordourlie¹
appoynted for the uttirhouse, sall nocht be callit there- 30

¹ "ordinarlie" in University Library copy.

fra to gif his voit in ony cause callit in the Innerhouse.
 Albeit he hes voitted of befoir in the samin cause except
 thair be nocht ane sufficient numer of ordinaris present
 in the Innerhouse besyde thame in the uttirhouse.
 5 Statute be the lordis. 23 Junij 1579 / [et] 22 Junij
 1586.

Letteris over the bar Solistatioun C. 9.

It is statute that na actis nor *letteres* salbe ressavit over
 the bar, And that na persone solist, the ordinar lordis,
 10 or clerkis that passis but to the uttirhouse, to call ony
 act, or *letteres* extraordinarie, under the pane of re-
 pruiif, and forther punisment at the lordis discretioun.
 Statute be the lordis. 23 Junij 1579.

Reding of the peces¹ Cap. 10.

15 It is statute that na maner of peces nor wreittis of the
 procese salbe red in *presens* of the lordis, bot *that* pairt
 onlie, quhairupoun allegiance salbe founded. Statute
 be the lordis .18. Julij 1590.

Decyding of Interloquutouris. C. [11]

20 It is statute that nixt eftir the billis be red in *the* Inner-
 house that the Interloquutouris cuming frome the utter-
 house, of the day preceding, salbe hard, and discussit,
 and the tyme salbe spended dalie thairon, quhill half
 25 to conuene eftir none, for delyvering of billis and advys-
 ing of interloquutouris, and examinatioun of witnes[is],
 or Improbatioun gif ony be. Statute be *the* lord[is] .23.
 Junij 1579.

¹ "processe" in University Library copy.

Idill discoursis, quha suld call the
actionis, voittis. Cap. 12.

Fol. 91. Item It is statute be the lordis of counsall and sessioun,
at his hienes *command*, for the bettir dispasche of
iustice, that the Chancellare and president, quhen ony 5
mater is called, according to *the* roll, put the advocattis
to ane poynt, suffer thame *nocht* to tyne tyme, with
Idill discourses to the preiudice of pairties. And that the
Chancellare, or in his absence *the* president, onlie,
command the actionis to be callit, according to *the* 10
ordour of the roll, And quhen ony cause is sufficientlie
ressonit, that they speir the voittis of the lordis. *Statute*
be the lordis .10. Januare 1604.

Dilaying of procese. Cap. 13.

Item because lang delay of procese is verrie preiudiciall 15
to [the] pairties, It is statute that ane mater beand
disputed in the counsalhouse, the samin salbe than
ended, gif it may guidlie be, Or incase of dout or
difficultie of the samin, the dout thair of to be put to
ane poynt be *the* lordis, gif they may guidlie sa do, 20
Utherwyse that ane schorte day salbe sett, be the Chan-
cellare, or president, to all the lordis, to advise and
decerne thairintill: And na forther to be delayed, bot
the samin day to be endit. *Statute* be the lordis .27.
Maij 1532. 25

Actionis of xl pundis *cummis* nocht befor
the lordis to be decyded. C. 14.

It is statute and ordanit, that all actionis, extending to
the awaill of fourtie pundis onlie, salbe proceded upoun,
and ressave procese befor the iudge ordinare, and *nocht* 30
to cum in befor the lordis, in the first instance, except
the memberis of the counsall and session, pur folkis

indigent, creatouris, and strangaris, quha sall have
procese at the will and pleasure of the lordis, as they
sall tak *consideratioun* thairanent. *Statute* be the lordis.

13. Junij 1532.

5 Nane suld entir at the bar bot pairties and
[there] *procuratouris*. Cap. 15.

Eftir that the action is called na man suld entir to
pley bot pairties, contened in the *summonis*, and *thair*
procuratouris, gif they will ony have. Jac. 5. parl.

10 5. c. 51.

Anent the quarter tabill. C. 16.

In the first it is deuysed statute and ordaned, That
the lordis of sessioun sall begin quhair *thai* left last in
calling of the tabill, and that the privilegit *summonis*,
15 of everie quarter salbe callit with the unprivilegit *sum-*
monis of that quarter, and all to be called and [to] have
procese baith upoun privilegit and unprivilegit untill
that dyet and quarter be endit, and to begin quarter
eftir quarter as eftir followes, And thir schyris follow-
20 ing to be the first quarter. That is to say fforfar,
Kyncardin, Abirdene, Banf, Elgin, fforres, Narne,
Innernes and Cromartie. The secund quarter. Edin-
burgh, Lynlythqw, selkirk, Peblis, Bervik, Roxbbrugh
and hadingtoun. The thrid quarter streviling, Air,
25 lanark, Renfrow, wigtoun, Drumfreis, Kirkcudbrycht,
and Annandaill, The fourt quarter ffyiff, Perth, Clak-
mannane, Kinrose, Dumbartane, Argyle, Tarbert and
Buit. Jac. 5. parl. 5. act. 44.

ANNOTATIO.

Fol. 92.

30 MEMORANDUM. It is to be remembered, That the
realme and Kingdome of Scotland hes threttie twa

17 Octob-
ris 1346.

schyris or schirefdomes, by and attoure *the* landis and
 schyris, that war takin for the releif of King David the
 secund, beand takin at the battell of Durhame, and als
 by and attoure, Orknay and Ȝetland with *the* Ilis per-
 tenand of auld to Scotland, as they ȝit do, beand 5
 governed be foudis in place of schireffis, According to
the forme of Denmark, Swadin and Norway. vid. de
 signif. verb. Anent the *annuell* of Norway, *quhilk* is
 renuncit, and discharged. Mairover the schyre or
 schirefdome of Innernes Is devyded in thrie schyris or 10
 schirefdomes. viz Rose ane schirefschip, and Caithnes
 ane uther, to be severall jurisdictionis and schyris, bot
 all suld ansueir to the iustice air of the schirefdome of
 Innernes. Jac. 4. parl. 6. act. 61. et act. 73. Vid. parl.
 7. act 101. Anent the divisioun of strevilingschyre / 15

11 Martii
1503 et
150—¹

Anent calling of the tabill and actionis.
 Cap. 17.

It wes statute be the lordis That *thai* sall cause, call
 the tabill, conforme to the auld actis, and athir desert
 the *summonis*, the first day na partie comperand, or 20
 admit protestatioun, solo reo comparente, Or disput,
 and put the mater to ane poynt *utraque* parte com-
 parente: And gif the perseware compeiris allanerlie,
 and produces ony probation, or schawes diligence done
 thairfoir, The defendar sall nocht be hard fra thyne 25
 furth, to propon dilatouris, or peremptoure exceptionis,
 And gif he produces na probation nor schawes diligence,
 Ane terme salbe assigned to his preif, quhairthrow the
 defendare salbe secluded, fra all proponing fra thyne
 furth, of any maner of dilatour exception, and this 30
 ordoure of procese, to be keiped in lykewyis in all uther
 actionis, and materis requyring probatioun, that beis
 callit ony maner of way by the ordour of the tabill
Statute be the lordis .13. Junij 1532.

¹ MS. cut away at edge of leaf.

Anent solisteris for calling of actionis. Cap. 18.

It wes statute and ordanit, gif ony persone or pairtie
ether the perseware or defender, be thame self or be
any uther mediate persone in thair name, solistis or
5 speikis to the Chancellare, president, or lordis, Or
desyris *thame* to call his actioun, or proceid onywyis
thairupoun, That his actioun or mater sall nocht be
called in na maner of way nor have forther procese,
for the first threttie dais thaireftir that *the* lordis sittis
10 for administratioun of justice Except it be at *the*
instance and desyre of the partie *adversar* The lyke
salbe done to thame, and thair actionis, quha happynis
to remane langare, in the counsalhouse nor the
maiseiris be commandit to Ische the samin, And to *this*
15 effect that the clerk of register, cause ane of his deputtis
Note the samin in thair buikis, Sua that quhen the
house is Isched, Nane remane bot *the* lordis haifand
voit and *the* clerkis quha ar depute be the said clerk
register. Statute be *the* lordis 17 Novembris 1610.

20 Ane roll of actionis to be called in the Inner-
house. Cap. 19.

Item to *the* effect, That *the* advocattis may cum the
bettir prepared to dispute grave causis, as is requyred
in the lordis haill *presens* It is statute, thair be ane Fol. 93.
25 roll of [all] sic causes affixt upoun the wall in the Inner
or uttir house, And that *the* said ordoure be followed
wifhtout interruptioun. Statute be the lordis 17.
Novembris 1610.

The ordoure of actionis callit in the
30 Utterhouse. Cap. 20.

Item for calling of causis in the utterhouse It is
also statute that this ordoure be observed for avoiding

of confusioun viz. that in the first place *the* actis of witnessis be called, Nixt the interloquutouris reported, and prosequut, quhill it cum to Litiscontestatioun, Their- eftir the causis of the puir and Ministeris, and than in the end all utheris caussis promiscue to be called be 5 the ordinaire lord. Statute be the lordis .17. Novembris 1610.

Minuttis of allegances suld be Red to
procuratouris. Cap. 21.

Item for eschewing of [the] questionis that fallis out, 10 Concerning the Minutting of allegances. It is statute, that the lord[is] Injoynis, to the clerkis and thair servandis, to have speciall cair thair of, And that the samin allegances as they ar Minuted be red to the lordis, the tyme of *the* advising of the cause, and red 15 to the procuratouris the tyme of *the* reportting of [the] interloquutouris. Statute be *the* lordis. 17 Novembris 1610.

Anent lordis quha convenis nocht tymouslie.
Cap. 22.

20

Item it is statute Anent the lordis, quha convenis nocht at the houre appoyntted, sall pay incontinent aughtene pennyis, and sall want thair pairt of *the* contributioun, and quotidian distributioun for that day, quhowbeit, they cum befor none, Nor sall nocht be 25 breved nor wreittin [in] amangis the rest of the lordis sedentes, bot salbe notted Immediatlie thaireftir, Incaise that Numer failze in geving of decreittis, And that all *the* naimes of the lordis present in dew tyme, be noted, be the scribis of the counsale in the buikis 30 callit sederunt, And that nane of the lordis, depart furth of the tolbuith befor twelf [houris] without

94.
Of civile processe

The Mynt Tytel

Of Maisterie contenaund

Ten chapteris.

Maisterie callie the parties

and frocngtonis. Cap. i.

¶ when it plesie the lordie, to
cause call any action or cause, the
ordiner maisterie at thair comand, standind in
a new placett North side in a vis in thair handis becom
lodes and girth bote, bairn in the smerhouse and botte
bonde, us women clatord callie the parties per se.

named with thair procreators, to compare before
the lordis and plead thair cause.

Of Maisteris. Cap. 2.

It was statute that all maisteris shoulde
beorne to spair thair office faithfully and dili-
gently, and that they shal nocht utter any thing
that they shal heare to be comend or spoken among
the lordis. Under the pane of deprivation and infamie
Stat. be the lordis. 27. May, 1532. Jac. 5. p. 5. and 6.

Maisteris into execute bills

of passis no the signet. C. 3.

Item it was statute and ordanit be the lordis,
that na bill nor warrant, of passis nocht y. signet
be past, delivrit, nor dicit, to any officer of armes,
bot

licence of the chancellor or president under *the* pane
foirsaid. *Statute* be the lordis. 13. Junij 1532. Vid.
in the begynning of this buik, eftir the erectioun of the
college of iustice, act, Anentis the dalie recidence of the
5 lordis, and panes Impute to thame, Anent the keiping
thairof. *Statute* be *the* lordis .4. Martii 1532.

The tyme of the rysing of *the* lordis. C. 23.

It wes statute, That quhow sone twelf houris strekis,
The lordis sall ryise, and remane na langare in dis-
10 cussion of ony cause, And quhatevir beis done thereftir
to be Null in the self, And that the maiser depute to
serve in the Innerhouse ouklike, sall schaw to the
lordis, alsone as twelf [houris] streikis, under the pane of
tynsell of his office, and uther panes arbitrale, to be
15 Impute to him be the lordis thairfoir.

Keipar of the knoke. Cap. 24.

It is statute, that the keipare of the knok within *the*
stipill of the hie kirk, Nethir hald the knok abak,
Nethir haist the houre, fordwarde, the tyme that *the*
20 lordis ar sittand bot that he reule the samyn justlie,
under the pane of skurging of him throw the toun.

The Nynt Tytill.

Fol. 94.

Off Maisseris contenand Ten chapteris.

Maisseris callis the pairties and procuratouris.
25 Cap. 1.

Quhen it plesis the lordis, to cause call ony actioun
or caus, The *four* ordiner maisseris at thair command,
standand in *thair* awin places with silver massis in thair
handis be ane lowde and heich voce, baith in the
30 Innerhouse and uttirhouse, as Nomenclatores callis the

pairties perseware and defendare, be thair speciall names and surnames with thair procuratouris, To compeir befor the lordis, and plead thair causes.

Aith of Maisseris. Cap. 2.

It wes statute that all maisseris salbe sworne to exerce 5
thair office faithfullie and diligentlie, and that they sall
nocht reveill ony thing that they salhappin to heir com-
moned or spokin amangis the lordis. Under the pane of
deprivatioun and Infamie. Statute be the lordis .27.
Maij 1532. Jac. 5. p[arl.] 5. act 62. 10

Maisseris suld execute billis *quhilk* passis nocht
the signet. C. 3.

Item it wes statute and ordanit be the lordis, that na
bill nor warrand, *quhilk* passis nocht *the* signet be past,
deliverit, nor direct, to ony officer of armes, bot onlie 15
to the ordiner maisseris or ony ane of *thaim*, and that
the wreitteris to the signet direct nor writ na sic billis;
except onlie to ane ordiner maisser, with certificatioun
to all *our* soverane lordis liegis, quha causis ony sic
charges, and delyverances be *officeris* of armes, that all 20
sic charges and executionis salbe null and ineffectuall.
Statute be the lordis .9. *Novembris* 1595.

The maisseris suld keip the Inner bar. Cap. 4.

It wes statute be the lordis of counsale and sessioun
in *presens* of his maiestie, that *the* maisseris, sall suffer 25
na Erlis lordis baronis, ladyis or uther men or wemen of
honour, to have ony accese, within the Inner bar of the
utterhouse, And ordanis the Maisseris to stay thame, fra
all entrie *withtin* the samin. Statute be the lordis.
5. Martij 1600. 30

The places quhair the maisseris, Sall stand.
Cap. 5.

It wes statute be the lordis of counsall and sessioun,
that the maisseris sall attend and serve be thame self-
5 is in thair particulare places under specyfyed, Ane of
thame to await upoun the Inner audience, Ane uther to
stand owtwith *the* bar, of the utter audience, and hard
by the samin, for ressavng Immediatlíe frome the
clerkis *the* Names of *the* parties to be Cryed upoun, Ane
10 uther at the dur of the uttirmaist bar, and the fourt in
the uttir tolbuith and entrie, Everie ane of the saidis
maisseris to Ansueir utheris quhen sa evir ony pairtie is
called upoun, And that nane of the maisseris sall
stand within the Inner bar of the uttir house, quhair Fol. 95.
15 *the* ordiner lord[is], and clerk[is] sittis. And that the
dur of the tolbuith be oppynned be the maisseris at
nyne houris Ilk day preceislie. Statute be *the* lordis.
10 Januarii 1604.

Heareris betuix the durrís. C. 6.

20 Item that the maisseris sall nocht permit na maner
of persones, to stand and harkin, betuix the durrís.
under the pane of deprivation of the saidis maisseris
frome thair offices. Statute be *the* lordis .14. Augustii
1590.

25 Agentis suld be debarred. C. 7.

Item It wes statute, that na Maisser sall grant ony
accese, to [ony] sic persones as ar called agentis,
withtin any of the barrís, outwarde or Inwarde, And that
the saidis agentis, salbe secluded, and debarrit thairfra, fol : 97.
30 and fra all Immunities and privileges quhatsumevir.
Statute be the lordis. 10 Januarii 1604.

Entering in the Innerhouse. C. 8.

Item alsone as the lordis ar entered (*quhill*is they sall do at aucht houris, and sall sit quhill ellevin houris be strukin in the tolbuith) that ane maisser sall Ische the counsalhouse, and he himself sall stand at 5 *the* dur, and lat na man entir, And gif ony lord, or uthir man cummis to the dur, and desyris enteres, that the maisser, cum and adverteis the lordis thairof, And gif they have ony mater, that they will propone, that sylence be had, *quhill* they have done, and than to 10 remove. Statute be *the* lordis 27. Maj 1532.

The maisseris places & office. C. 9.

Item it wes ordained, that ouklie ane of *the* maisseris eftir as it cummis to thame be ordoure, remane within the bar, and ordoure the samin sa lang as [the] parties 15 pleyis thairat, and ane uther to stand outwith the bar, to ordour the samin, And the remanent of the maisseris to stand outwith the dur, And the dur to be patent and staff to be put in the samin, And that all maisseris Ische out of the counsalhouse, at everie tyme 20 with the pairties, and nocht to remane and sit *thairin* bot sall steik thame selfis furth at the uttirmest dur, quhill they be callit on, be ringing of ane bell or be command of the president as requyris; And that nane of our soverane lordis liegis, hie degrie nor law dissobey 25 the charge of the saidis masseris in Ischeing and entering in the said counsalhouse: Under *the* pane of Ten pundis to be payed to *the* collectouris, and applyed to *the* quotidian distributionis, and to remane in waird *quhair* the [saidis] lordis plesis, quhill the samin be 30 payed, Except procuratoris, and advocattis, samony as ar admittit, ordiner of befoir with thair Clyentis, with ane, or twa of thair vyis freindis, at the maist, quha hes thair cause actuallie in pley, or utheris licenciate literate

young men, haifand licence of the lordis to heir & leir
the practique, And that the maissers[is] Ische *the* uttir
tolbuith within the bar, And that nane remane in the
uttir tolbuith within the bar, bot the advocatis *procura-*
5 *touris* and the said[is] literate young men, and the
advocattis servandis with thair polkis and *letteres*, and all
utheris to remane outwith the bar, unto the tyme they
be called upoun be the Maisseris to entir in *the* counsal-
house with thair procuratouris, quhen thair mater is in
10 pley actualle. *Statute* be the lordis .13. Junij 1532.

The maisseris nocht servand trewlie, ar
punished. C. 10.

It wes statute that thair be foure ordinar maisseris, Fol. 96.
quhilkis sall await *continuallie* in tyme of sessioun, and
15 serve trewlie in thair offices as the samin requyris, and
sall be commanded, And gif ony of thame failzeis thairin,
he salbe depryved of his office, and forther punished as
the cause requyris, at the sight of the lordis. *Statute* be
the lordis. 13 Junij 1532.

20 The tent Tytill.
Off advocattis and procuratouris and thair admis-
sioun Contenand Sextene Chaptouris.

Of admissioun of advocattis. Ca. 1.

25 Apud Edinburgh decimo septimo. Novembris [17 Novem-
Anno domini 1610. bris 1610.]

The *quhilk* day in *presens* of the lordis of *counsall*
Compeired the haill numer of the ordinar advocattis of
thair courte and sessioun, quha beand desyred of befoir,
be the saidis lordis to meit and convene amangis thame
30 selfis, that they nicht deliberate upoun sum best ovartis,
quhilk mycht tend to the remedie of divers abuses

quhilkis creiped in amangis thame, And eftir thair
 deliberatioun to present the saidis overtouris befor the
 saidis lordis, that they nicht, consider the samin, and
 allow thairof as they fand [guid] meit and expedient,
 The saidis advocattis according to the *command* foirsaid, 5
 eftir they had *convenit* and advysed amangis thameselfis
presentit the overtouris underwritin to be red and
 considered be *the saidis lordis* Off the *quhilkis* the
 tennour followes. The hail advocattis beand *convened*,
 according to thair lordschippis ordinances, haifand weyed 10
 the causis of *thair* meitting dois in all humilitie acknow-
 lege *the* singulare cair and effectioun, *quhilk* the saidis
 richt honourabill the lordis of his hienes counsall hes for
 reestablisching of the wountted glorie of the seat of
 iustice and for repairing of the brekis thairof, and vises 15
 fra thair hairtis they mycht be anserabill in sum measoure
 to thair *lordschippis* guid intensioun, And seing the decay
 is so sencibill and universall that it hes moir neid to
 be cured nor Inquyred, they leif unto thair *lordschippis*
 as the heid thair awin roume and place for [the] redres 20
 of the samin. And 3it as memberis of the samin body
 resentis thair awin evillis, They have all in ane voce by
 soleme promeis and attestatioun, and by ane singulare
 maner resolved, sa far as in thame lyis to cut of all
 occasionis, that *the* evill begun, spred no *forther* amangis 25
 thame.

They lament in the first the contempt (unto the
quhilk) thair calling of advocatioun, *quhilk* wes anis
 honourabill is brocht. and amangis utheris causis thairof,
 they find the neglect of ane iust tryall, *quhilk* is requised 30
 in the maist mechanik callingis Is the principall, The
 omissioun *quhairof* hes *producit* in schorte tyme ane
 evill, *quhilk* is all moist Incurabill In sic sorte, that *the*
 Name and estimatioun of ane advocate is becum vyle,
 and hes lost *the* formare beutie, and that nocht without 35
 sum Imputatioun to the honourabill seate of the college
 of iustice in the *quhilkis* they serve / ffor remeid

quhair of it is moist humelie craved of the said richt
honourabill lordis of his majesties counsall That thair be
ane act maid Ordaning, that nane heireftir be admitted
to *the* said calling of advocatioun befor *your lordschipis*
5 except these quha eftir they have past *thair* course of
philosophie, hes bene brocht up in sum universitie, as
studentis to the lawes be the space of twa *zeiris* or thairby,
and quha befor thair admissioun sall gif ane prui of
thair qualyficatioun. Or ellis they be sic as hes bene
10 brocht up with auld lerned [laweris or] advocattis be the
space of sevin *zeiris*, and quha befor they be harde
to gif in thair petitioun to the saidis lordis *con-*
cerning *thair* admissioun to the said calling, salbe haldin
to gif sum prui of thair habilitie to the advocattis and
15 sall reporte thair testymoniall, And that na advocate
presume to the said calling Except he be speciallie
assisted and recommended to the saidis lordis be the
richt honourabill his hienes advocate for the tyme
According to the custume observed in uther cuntries.

20 Anent the Minute of the names and compering
of *procuratoris* C. 2.

Nixt It wes fundin that thair is ane greit abuse *com-*
mittit in Marking of the compeirance of *procuratoris*
pairtlie at the first calling of the cause to see *the* peces
25 pairtlie in the actis of *continuatioun* of the *summonis*,
quhilk bydis dyet and tabill, And partlie at the geving of
decreit*is* *quhairin* na partie nor *procuratour* compeiris
for *the* defendare or grantting of protestatioun, *quhairin*
na pairtie nor *procuratoure* compeiris for the perseware.
30 *Quhilkis* for the maist pairt ar done without *the* know-
lege of the advocate, quha is merkit compeirand, and
that be sic persones quha ar nocht authorised, to have
place *withtin* the supreme courte, and quhairupoun thair
enschewes mony *Inconvenientis*, *quhilkis* ar nocht neid-
35 full to be expressit ffor removing quhair of it is humelie

craved That ane act be maid be thair *lordschipis* Inhibiting thair clerkis or thair servandis, to mark any advocate comperand ethir to se the peces, or to produce ane principall, or to authoreis ane continuatioun of summonis, that bydis dyet, or in decreittis that passis for 5 nocht compeirance, except the said advocat be present him self, or his ordiner servand, quha knawes his maister to have speciall Imployment thairin Statute be the lordis .17. November .1610.

Advocattis places, the utter bar :

10

Agentis. Cap. 3.

Item that confusioun in the uttir house may be reformed, *quhilk* dois proceid frome the greit repair
fol: 95. of the liegis, and utheris persones sic as agentis, quha ar unprofitabill within the place appoyntted for the advo- 15 cattis, and their servandis. It is humelie craved, that according to the approved forme of the maist renowned iustice saittis in Europe places may be appoyntted for the advocattis and thair servandis, in sic semelie forme as thair *lordschipis* sall think meit And that strait ordoure 20 be gevin to the maisseris, that thair suffer na persones to have entrie within the utter bar, Bot speciallie men with spurris, and agentis, aganist quhome thair is mony guid actis and statutis maid of befoir. Statute be the lordis. 17. Novembris 1610. [vid. maisseris. Tit. 9. c. 7. et 9.] 25

ANNOTATIO.

Item it is to be remembred, as to the maner to be observed in examinatioun of witnessis, The samin wes
Fol. 98. remitted to the saidis lordis consideratioun Quha fand as is contened in Tit. 26. of probatioun be witnessis. 30
fol. 121. c. 11. Examinatioun of witnes, and lordis in the utter house. Mairattoure thair ar uther thrie of the said advocattis articlis, of thair overtouris grantted be

the saidis lordis, as they ar writtin in the .8. Titill of
the calling of actionis. c. 18. 19. 20. et 21. *Quhilkis* 93 fol.
haill articlis abonewrittin beand sene, red, and consider-
red be the saidis lordis. They have allowed the desyre of
5 the abonewrittin articlis and all thair of, and according
thairto hes ordaned the samin to be inserte in thair
registeris for a recorde of thair auctoritie interponed
thairto, *Quhilkis* the saidis lordis declairis, they wald
observe and gif sic ordoure for ane pertinent course in
10 all the premissis to be tane and keiped thairin as ap-
pertenis, and as they suld fynd meit, and expedient
in all tyme to cum. And as to the last of the saidis
articlis Anent *the* taking ordoure for examinatioun of
witnes, They have fund and set it down as is writtin in
15 the tyill foirsaid etc.

fol. 121.

The libertie and Numer of advocattis.

Cap. 4.

Procuratouris or advocattis may *compeir* and procurir
in all civile actionis, for the perseware in persewing, Or
20 for the defendare in his defence. lib. 3. c. 15. At the
maist twa for Ilk pairtie, and they sall *procurir* for everie
man for thair waygis, except they have ane ressonabill
excuse under the pane of deprivationoun. Statute be *the*
lordis. 13. Junij 1532. 14 Augustii 1590. They may
25 try and consult with persones forfalted, Anent thair
restitutioun As is contened in *the* omitted actis Nocht
Imprentted. Jac. 6. parl. 10 in tabula .21. decimo
Decembris 1585.

Codex De
Crimine
Læse
Majestatis
L: 5. con.

Quha suld be admitted *procuratouris*. c. 5.

30 Procuratouris suld be admitted be *the* lordis, and
nane suld be admitted, bot men expert and qualyfied,
and sic men quha hes procured, and travelled befor
inferiour iudges, the full space of thrie 3eiris, And thair-

eftir gevin ane sufficient pruiſ of thair qualificatioun,
and reportis the inferiour iudges testimonyall thairupoun.
Statute be *the* lordis 8. Augustii 1588. 14. Augustii
1590.

Procuratouris suld be 3eirlie Sworne.

5

Cap. 6.

Advocattis at the tyme of thair admissioun, and 3eirlie
the first day of November, quhen *the* lordis sittis down,
salbe sworne to execute thair office of advocatioun,
diligentlie and trewilie, And how sone they understand 10
thair clyenttis cause, for quhome they procurir, to be
unjust and wrangus, that they sall incontinent leif the
samin, and desist fra [all] forther persuit, or defence.
Statute be *the* lordis .13. Junij 1532. 27. Maij 1532.
Jac. 5. parl. 5 c. 65. 15

Ignorant procuratouris. Cap. 7.

It wes statute that na procuratouris Ingyre thame
selffis, to cum to the bar, unprovdyed, to plead ony
mater or actioun, Nocht knawing the mereittis thair of,
under the pane of payment to there Clyentis, of all 20
letteres, and expenssis that they sall happin to mak
remanand on justice, with other pane arbitrale, that salbe
Imput to thame be the lordis. Statute .13. Junij 1532.

Procuratouris suld have [ane] mandat. c. 8.

Fol. 99.

Item na procuratoure sall compeir at the bar to pro- 25
cuir in ony cause Without autentik letteres of procuratorie
maid and grantted, be him, for quhom [he] speikis and
procuris, and that he will abyde at the samin, as ane
trew mandat, Or ellis the procuratouris salhave autentik
extractis furth of the buikis of counsall, berand thame 30
to be constitute procuratoure, subscrivit be the clerk

registere or his deputtis, to the *quhilk* faith salbe gevin
as to ane lauchtfull constitution. *Statute* be *the* lordis.
13. Junij 1532.

5 [Of procuratouris beand in the Inner house, and
that ane speik onlie.] Cap. 9.

The lordis in the uttirhouse sall na wyis delay upon
the allegiance, that the procuratouris ar occupied in
the Innerhouse, bot they or the pairties sall provyde
thame of colligis Mairover gif ony pairties have ma
10 procuratouris nor ane, to persew, or defend, ane of
thame onlie salbe harde to resson the caus in *presens*
of the lordis, quhome the pairtie sall cheis All the rest
of the procuratouris sall remove thameselfis outwith to
the utterhouse, to await upoun thair materis in the
15 utterhouse, [And the samin ordoure to be keiped in the
Utterhouse,] That ane procuratour onlie speik for his
clyent. *Statute* be *the* lordis .7. Januare 1583.

Procuratouris suld be modest and escheu
[all frevoill exceptionis and] repititionis etc.
20 Cap. 10.

All procuratouris suld be Modest at the bar, alsweill
in presence of the lordis, as in ressoning of *thair* causis
modestlie, bayth in the Inner and utter houses, and
suld nocht propone vane and frevoill allegances excep-
25 tionis, dilatouris, or peremptouris, *quhilkis* ar contrare
to the practik, conswetude law of the realme. *Statute*
be *the* lordis .28.¹ Octobris 1577.

[Harrangis or] Repititionis to be eschewed.

C. 11.

30 Item because diverse advocattis, and procuratouris,
dryvis and prolongis tyme be repitition of ane thing

¹ 25th October in University Library copy.

Thairfoir it wes ordanit, that na procuratour nor advocate, eftir they have schawin planelie, the mereittis of the cause, of thair clyent, and ane answer maid thairto, be the pairtie adversare or his procuratoure, and sylence Impute to thame be *the* chancellare or president: that 5 they mak na new repititioun, of it that is ellis sayd, and ansueir gevin thairto, Nor pley forther in the mater, eftir sylence is put to thame under the pane arbitrall to be modified be *the* lordis. Statute be thame 13 Junij 1532. 10

Procuratouris suld remove and entir *witht*
thair clyenttis C. 12.

It wes [statute and] ordaned, that all advocattis and *procuratouris*, sall entir in the counsalhouse, at the calling of all summonis and actis, and remane *quhill* 15 they have disputit thair materis at the bar / and than to remove *quhen the* parties ar removed, and to entir in agane at *the* geving or *pronunciatioun* of interloquutouris, or decreittis; quhen the pairties ar called, and enteris be the maissar at *command* of the lordis. Statute 20 be the lordis .27. Maij 1532. Jac. 5. parl. 5. c. 66.

Procuratouris suld keip *thair* saittis [quhill *thai*
be called.] C. 13.

The advocattis sall keip thair seittis in the uttir house untill they be callit, and nane sall preis to *the* bar / bot 25 sic as ar propirlye advocattis in the mater *quhillk* is called. Statute be *the* lordis .4 Junij. 1586.

The complaint of *procuratouris*. C. 14.

All procuratouris, that thinkis *thai* have occasion to complane, anent any decisioun, gevin in the utterhouse, 30 salbe harde, and have audience in the Innerhouse in

presence of the haill lordis, upoun ane mand of Sex
pundis. Statute be the lordis .20. Januarii 1604.

Passing fra persuit. C. 15.

Fol. 100.

It wes statute that quhair eftir lang pley or disputa-
5 tioun, The perseware or his *procuratouris* will preis to
pas fra the persuit of his *summonis* befor *pro-* fol: 104.
nunciatioun of Interloquoutoure, that rigorous expensis
salbe payed, to the defendare, and ane unlaw of fywe
pundis to the lordis. Statute be thame .18. Julii 1590.

10 Tyning of the peces or *proces*. Cap. 16.

It is Statute, that quhat evir advocate, tynis and
amittis, the peces or procese, of his awin clyent, or of
his pairtie adversare, deliverit to him to be sene, salbe
haldin to ansueir, for *the* dammage and interes. Statute
15 be the lordis [14] Augustii 1590.

The ellevint. Tyttil.

contenand ane chaptour

Off the persewer absent and the defender
present.

20 Protestatioun aganis *the* persewer.
[Cap. primus.]

Quhen the persewer Compeiris nocht, to *persew* his
action intentit be him, the day of comperance, to the
quhilk the defender is *summonit* being bygane, The
25 defender compeirand personalie, or be his *procuratouris*
May produce in judgement the copie of the *summonis*,
delyverit to him, quhen he wes *summonit*, and declair
that he wes *summonit* to ane certane day bygane be
the persewer to have defended [in] sic ane cause, And

because the persewer nor nane in his Name *compeiris* to persew him, he beand redie to mak ansueir He may protest, that na procese be led nor deducit aganis him in that action untill he be of new warnit, and *summonit* be the perseware, and his expensis payed to him, maid 5 be him be ressoun of his *compeirance*, or utherwyis in that cause, or pley. Quon. attach. c. 6. c. 58. Vid. Jac. 4. parl. 3. c. 35. et authen. qui semel. C. quomod. et quand. iudex.

The Twelt. Tytill.

10

of the defender absent, and the persewer
present. Contenand twa *chaptouris*

Ane terme of *probatione* grantit to *the*
persewer *present*. Cap. 1.

Quhen the defender *compeiris* nocht, nor na *pro- 15*
curatour in his name, to defend for him, the persewer beand *present* may produce the principall *summonis*, raised at his instance dewilie execute and indorsate, and desyre procese *thairupon* *quhilk* suld be granttit unto him, and ane day or terme of *probatioun* salbe 20 assigned to him for proving of his lybell and *summonis* gif neid beis, and to warne *the* partie defender to *compeir* that day, to heir *probatioun* led and deducit Quon. attach. c. 6. et [c.] 58. mod. ten. cur. c. 9. et c. 24. Jac. 4. p. 3. c. 30. l. 3. C. quomod. et 25 quand. iudex.

Decreit is gevin aganis *the* defender. C. 2.

Utherwyse gif *the* lybell is founded super his que consistunt in jure, sua that *probatione thairof* is nocht necessar The iudge may pronounce *the* sentence, and 30 decreit definitive in favouris of *the* persewer, conforme

to his lybell aganis *the* defender be ressonne of his contumacie and nocht comperance.

The threttene Tytill

Fol. 101.

Off the persewer, and defender, baith com-
5 peirand, contenand .10. chaptouris.

Protestatione aganis the persewer Rescinded.

Cap. 1.

Gif baith the persewer and the defender compeiris in
judgement, and the persewer refuse, to produce his
10 principall summonis, the defender may seik protestatioun
aganis him, be production of the copie of the
principale summonis, as gif the persewer war absent as
said is. quhilk protestatioun the persewer may stope,
and stay be production of the principall summonis
15 dewilie execute and indorsate, and sua rescind the
protestatioun, gif ony is admittit, payand the expensis,
quhilk *the* defender maid thairanent.

Desyre to see the pecese. Cap. 2.

The protestatioun, beand rescinded, and the prin-
20 cipall summonis produced, The defender may ask
inspectioun thair of, and the sicht of the peces of the
processe, sic as the principall summonis, the executioun
and indorsation thair of with the perseweris tytill, be
virtew of *the* quhilk he persewis his lybell and actioun,
25 and quhairupoun his lybell is founded.

Production of *the* perseweris tytill C. 3.

Because the persewer compeiris and foundis his
sumoundis or lybell upoun ane tytill in writ, he suld
produce the samyn in the begynning of the pley, for

instructioun of his Lybell, gif the samin be requyrit be the defender Albeit the samin tytill is produced be him in ane uther procese befor the samin iudge, and gif the persewer refusis to produce the same, the defender suld be absolved fra that *summonis*. [Practized 5 befor the lordis .28. Januarij 1534. The bischope of Sanctandrois contrar the erle Buchan]

The sycht of the *summonis*, and *executionis*.

C. 4.

And gif the [*summonis* or] libell is founded upon na 10 tytill in wreit, Nevirtheles the defender suld have sicht and inspectioun of the *summonis* and *executionis* thereof. *Statute* be the lordis .14. Augustii 1590.

The reasone quhy the sicht of the peces suld be granttit. Cap. 5.

15

Quhilk inspectioun of the peces, and wreittis of the procese suld nawyis be denyed [nor Refused], bot suld be granttit to the defender. Quia actor debet edere actionem reo, ut is deliberet, utrum velit cedere an iudicio contenderet. l. 1. ff. de edend. et l. 1. l. 4. et tot. 20 tit. C. de edend.

Quhow lang the peces may be keipit. C. 6.

And sua the peces suld be delyvered, be the persewer to the defender, quhilk he may keip in his possessioun be the space of fourtie aucht houris, Within the quhilk 25 tyme he may advise with his freindis, and counsalouris and be resolved quhither he will desist, fra pley, or compeir, and defend in the cause; And therefoir this tyme [is] granttit to the defender, to see the perseweris tytill, and uthir peces, is callit inducie, deliberatorie, 30 Because in [the] meanetyme the pley ceissis and stayis, and as it war trewis and abstinence is takin betuix the

parties. lib. 1. c. 11. c. ult. 3. quest. 3. per tot. c. 2.
de dilationib. extr. Statute be *the* lordis .10. Januarii
1604.

5 The Sabbath day, Nocht comprehendit in the
xlviij houris, The *sycht* of the peces. suld
nocht be Iterat [nor sene *our* agane]. Ca. 7.

It wes statute be the lordis, that the Sabbath day Fol. 102.
sall nocht be comprehendit within the said space of
fourtie aucht houris, granttit to the defender, for keiping
10 and seing of the perseweris peces, and wreittis: Mair-
over it is declaired, that ane advocate anis *compeirand*
for the defender, and seand his parties peces, that ane
new sicht of the *samin* peces, sall nawayis be granttit in
that cause to ony uther advocat. statute [be the lordis]
15 10 Januarii 1604

Sicht[ing] of peces denyed to the Persewer.
Cap. 8.

This privilege, and space of tyme for seing of peces
is granted to the defender for the reasone foirsaid And
20 na sic tyme suld be granttit to the persewer to see the
defenderis rychtis and tyillis. Quia actori liberum est,
agere vel non agere, and sua the persewer suld be
weill advised befor he intend his actioun; And eftir
the day of compeirance na advisement suld be granttit
25 to him, to hurte or delay the defender. l. 6. de tempor.
in integr. restit. l. 5. de dol. mal. l. unic. C. ut nemo
invjt. ager. vel. accusar. cogat. c. inducie § ei vero.
3. q. 3.

30 The defender suld nocht produce his tyill in
Initio litis C. 9.

And thairfoir gif the defender comperand foundis his
exceptioun upoun ony tyill or rycht in writ, he suld

nocht be compellit, to produce the samin, to the persewer, the tyme of the proponing of the exceptioun: bot is [suffered as] sufficient to produce the samin, at *the* terme assigned for preving of *the* exceptioun, And befoir that tyme, the defender may nocht be 5 compellit, to gif to *the* persewer the inspectioun, or copie of his richt or tytill. Quia reus non tenetur edere sua instrumenta adversario suo ad fundandam ipsius intensionem. l. 4. C. de edend.

Obiectionis contra *producta*. C. 10.

10

The lordis usis to grant and reserve to the persewer all his iust and lauchfull defences and obiectionis contra *producta*, *quhilk* he sall pleis to *propone* aganis the defenderis tytill, *quhairupoun* his exceptioun is founded, and aganis ony utheris wreittis quhen they 15 salhappin to be productit be the defender in termino probatorio, for preifing of his exceptioun, proponit be him, and admittit to his probatioun. etc. Mar. Reg. parl. 7. c. 63. vid. Tit. 31. Anent conclusioun of the caus. Cap. 4.

20

Fol. 103.

The fourtene Tytill

Anent the calling of warrand's Contenand
thrie chaptouris

The auld forme of warrandice abrogat. Cap. 1.

Conforme to the auld law and practik it wes lesun 25 to the defenderis, to call thair warrand,¹ of that thing quhairanent they wer chellenged, untill the fourte warrand, and in the menetyme, the first, and principall cause did cease and sleip untill [all] the [foure] warrand's war discussed, lib. 1. c. 15. c. 23. et c. 25. 30 [et 26]

¹ "thrie warranttis" in University Library copy.

The Lordis hes abrogat, that langsum, tedius and sumptuous forme of procese ; and for the schorter and mair easie administratioun of iustice, quhen the defender desyris to call his warrand, of that thing, *quhilk* 5 is clamed fra him, they proceid and dois iustice in the principale cause, and admittis nocht the warrand in that instance Bot reservis actioun to the defender aganis his warrand to persew him quhen and how sone he plesis be *summondis* to be callit upoun twentie ane dais warn- 10 ing, but dyet or tabill. Statute be the lordis .16. November 1579.

Denunciation of warrandice suld be maid
be *the* defender. C. 2.

And the pairtie defender in the principall caus, suld 15 denunce the pley, to his warrand, and Intimate to him the dependence theirof, to the effect that *the* warrand, gif he pleis may *concur* with the defender, and defend with him in the cause aganis the persewer ; *utherwyis* gif he makis na denun*ciatioun* in lauch*tfull* tyme and 20 the warrand declair and schaw ane relevant exceptioun, quhairby he mycht have defended in *the* said caus, The defender tynis his warrand, And the warrand, est tutus exceptione litis non denun*ciate* l. emptor. 8. l. si permutationis. 29. C. de evictionibus c. ult. et ibi. glos. 25 de empt. et vendit. extr. l. si rem. 29 et. ibi. glos. verb. definitur l. herennius 63¹ ff. de evictionibus vid. Quon. attach. c. 78 vid. lib. 2. c. 67. vid. lib. i. c. 22.

Anent cautioneris and thair Warrandice. Cap. 3.

The lordis of counsall statute and ordanit, *that* upoun 30 all contractis, bandis and obligationis maid betuix principall parties and thair cautioneris, berand this clause following viz. that *the* principall parties bindis

¹ 23 in University Library copy.

and obleissis thame *thair* airis executouris and assignais
 To warrand freith releif and keip skaithles thair caution-
 eris of the haill contentis of *the* foirsaid contract and
 bandis, and of all coistis skaythtis dammaige expenssis
 and interes *that thai* thair airis and assignais or athir of 5
 thame may in ony wyis incur or sustene *thair*throw.
 That they will grant in tyme cuning aganis *the* [saidis]
 principall parties thair airis and executouris actionn at
the cautioneris instance, thair airis and executouris and
 in thair favouris Immediatlie efter that they be distrest 10
 and compellit to fulfill *the* contentis of the saidis con-
 tractis, be payment of *the* sowmes *thairin* contenit, Or be
 poynding of thair guidis, Or comprysing of thair landis
 for payment *thair*of, Nocht onlie for recoverie of the
 principall summes contenit in the saidis contractis bandis 15
 and obligationis Bot als To caus and compell thame To
 pay and deliver agane *witht the* said principall sowme
the haill annuelrentis extending to ten [merkis] for Ilk
 hundreth of *the* saidis sowmes of all 3eiris and termes
 bygane that *the* saidis cautioneris hes bene compellit to 20
 Fol. 104. pay and satisfie *the* saidis sowmes. Or thair landis
 guidis and geir hes bene poynded and comprysed thair-
 foir, And als to content and pay to *the* saidis cautioneris
 thair saidis airis and executouris 3eirlie and termelie
 in tyme cuning ten merkis of annuelrent for Ilk 25
 hundreth Ay and *quhill* the said principall summe be
 [repayit] to *the* saidis cautioneris and thair foirsaidis.
 Statute be *the* saidis lordis .7 februarye. Anno domini 1610
 3eiris.

The fyftene Tytill.

30

Anent the ordoure of proponyng of exceptionis
 Contenand .16. chaptouris

Passing fræ comperance. Cap. 1.

The defender may pas fra his comperance: and gif
 he plesis, he may suffer the summonis to pas to 35

probation aganis him self, for his nocht compeirance.
lib. 1. c. 5 et 6.

Defender comperand. Cap. 2.

Or the defender may compeir personalie, or be his
5 procuratouris, and propone all his exceptionis, and use
his lauchfull defences.

Exceptionis declinatouris c. 3.

And it is to wit, that all exceptionis declinatouris,
aganis the judge, suld be first proponed befor dilatoure
10 or¹ peremptoure exceptionis. C. quoniam 11 et ibi 107.
glos. verb. exceptiones de probat. extr.

Proponyng of dilatouris is exclusioun of all uther
exceptionis. Cap. 4.

And gif the partie defender propone ane diclinatoure,
15 and ask and desyre ane interloquutoir thairupoun, he suld
nocht be harde eftirwarde to propone any exceptioun
diclinatoure, or recusatour aganis the judge, Albeit be
the proponing of [the] diclinatour he protest, for all his
lauchfull defensis, Because conforme to the reull of the
20 law, primus actus iudicii, est iudicis approbatorius. 1.
ult. et ibi. glos. C. de exceptionibus Jac. 5. parl. 5.
act. 67.

Proponyng of declinatouris affermis the judge.
Cap. 5.

25 [And] gif the pairtie desyris the judge, to purdge
himself of partiall counsall, and the judge at his desyre
makis his purgatioun: he thairby is understand, to have
admittit and approved, him to be iudge competent,
And thairfoir he may, nocht declyne his jurisdiction.

¹ "and" in University Library copy.

Twa kynd[is] of exceptionis aganis the judge.
Cap. 6.

Twa kynd[is] of exceptionis ar competent aganis *the* judge, The ane is called the exceptioun of Incompetencie, quhen the defender allegis the iudge to be Incompetent, 5 and that *the* actioun pertenis nocht to his iurisdiction, be resson of his persone, as gif he is excommunicate, Or in respect of the cause, As quhen ane criminall cause is persewed befor ane civile, or ecclesiasticall iudge, Or be resson of the personis pleydand that is the persewer 10 or defender nocht duelland within his territorie or iurisdiction Quon. attach. c. ult. l. ult. ff. de iurisdictione iudic. l. ult. C. de iudic.

Exceptionis of suspition C. 7.

Fol. 105. The uthir exceptioun is called exceptioun of sus- 15
pitioun, quhen *the* defender in ane actioun pertening to the iurisdiction of the judge, Allegis that he can nocht be judge, Because he is partiall and suspect in the cause. Quon. attach. c. 13. c. 16. Mod. ten. cur. c. 32.¹ Jac. 3. parl. 5. act 26. 20

Exception of Incompetencie. C. 8.

Exceptio incompetentiæ may be exceptit² aganis all iudges within this realme, as lordis of *counsall* and session, and all inferiour, or uthir iudges criminall, ecclesiasticall, or civile; Becaus na iudge may sit or 25 judge in ane cause, *quhilk* pertenis nocht to his iurisdiction. l. ult. ff. de iurisd. om. iud[ic]. l. 1. et. tot. tit. C. si. non compet. iudic.

Exception of suspition *quhat* it is. C. 9.

Exceptio suspitionis, may be proponed and obiected, 30
aganis all and *quhatsumevir* iudges of *quhatsumevir*

¹ "33" in University Library copy.

² "obiected" in University Library copy.

jurisdictioun, except [onlie] the lordis of sessioun.
ffor be thair first institution, Nane of thame may
be removed in ony actioun or cause, pertening to
thair jurisdictioun, be ressonne of any suspitioun, or
5 allegit partialitie, gif they be thair aytht judicialle
purdge thame self of partiall counsall.

Exceptioun of suspitioun aganis the lordis of
Session. C. 10.

Nevertheles ane exceptioun of suspitioun is com-
10 petent aganis the lordis of sessioun Conforme to the
lait act of parliament, *quhairby* it wes statute and
ordanit, That na lord of sessioun salbe iudge in
ony actioun *pertening* to *thair* father, sone, or brother.
Jac. 6. parl. 14. act. 212. vid. authent. si contigerit. C.
15 de iudic. c. cum speciali 61. de appellat. extr. vid. Mar.
Reg. parl. 6 act. 39. in fine.

Exceptionis contrare the persewaris persone.
Cap. 11.

The defender suld propone his exceptionis, aganis
20 the persewer and his persone Allegand, quod non habet
personam standi in iudicio. Because he is rebell and
at *the* kingis horne. Jac. 6. parl. 6. act. 75. Jac. 6.
parl. 14. act. 227 or excommunicate etc. Jac. 6. parl. 3.
act. 45. Bot in criminall causis the horning for ane
25 civile cause is nocht admittit. Jac. 6. parl. 21. act. 3
Anno domini 1612.

Exceptionis aganis the tytill. C. 12.

Eftir the exceptionis contrare the perseweris persone,
the defender suld propone his exceptionis aganis the
30 tytill of the *perseware*, et contra litis ingressum

Allegeand that he suld nocht be compellit, to defend or
 entir in pley aganis him, be ressonne of his tytill
 productit be him, Because, the samin, is Null of the
 law, The *quhilk* exceptioun of Nullitie aganis *the*
persewaris tytill, may be many in Numer, be ressonne 5
 of the diversitie of tytillis, *quhilkis* ane *perseware* may
 use, in persewing of his action and lybell The
quhilkis Nullities suld be ressavit be way of exceptioun
 or reply. Mar. Reg. parl. 6 act 42. Vid. [Act anent]
 exceptionis of prescriptioun [of heretabill *rychtis*] 10
 following heireftir. Cap. 14 to be insert in this place
 etc. [Jac. 6. parl. 22. act. 12 dait 28 June. anno
 1617.]

Exceptionis aganis *the* lybell. C. 13.

Thereftir the defender, suld propone and allege his 15
 exceptionis, aganis the lybell, And speciallie in the
 Fol. 106. first, his dilatouris, aganis *the* Irrelevancie thair of,
 As gif the lybell, or *summonis*, is blottit or raised in
 suspect places. That is to say in the Name or surname,
 of the *perseware* or of the defendare, and in the name 20
 of the land, or of *the* cause, upoun the *quhilk the*
summonis is raised, and purchest, or in the dait. Jac.
 pri. p[arl]. 9. act 113. Bot in criminall causis na
 exceptionis contrare *the* *summonis* lybell or dittay may
 be obiected. Jac. 6. parl. 11. act 31. 25

Exceptionis of prescriptioun conforme to
 the actis of parliament. C. 14.

Exceptionis of prescriptioun be the Lawes of the
 4 Genera realme of Scotland, and actis of *parliamentis* maid
prescriptionum. thair anentis, ar foure in nowmer, as followes. ffirst, 30
 That all *sumoundis* of Errorr, and Inordinate pro-
 cessis, be raisit and persewed with in *the* space of thrie

3eiris. Jac. 4. parl. 5. act. 57 / 13 Junij 1494. Item
 prorogatt to twentie 3eiris. Jac. 6. parl. 22. act. 13.
 28. Junij 1617. Item for thrie 3eiris In actionis of
 removing eftir the warning Item of thrie 3eiris in
 5 actionis of eiectionis, spul3eis and utheris of that nature,
 Item of dettis house maillis, *mennis* *ordineris*, *servandis*
fies and *merchandis* *comptis*, and utheris the lyke dettis
 that ar nocht foundit upon writtin Obligationis be
 prescryvit within thrie 3eiris *utherwyis* the creditoure
 10 salhave na actionun, Except he ethir preif be wreit, or be
 the aith of his pairtie / Jac. 6. parl. 6. act. 81. 82
 83. 20. *Octobris* 1579.

Secundlie possessioun be the space of ffywe 3eiris ^{2dum}
 is sufficient to *the* king his *majestie* Of landis takkis ^{Genus.}
 15 and teindis Cum in his hienes handis be forfaltoure etc.
 Jac. 6. parl. 9 act. 2. The 22 *augustii* 1584.

Thridlie of sevin 3eiris, Anent Redemptioun of ^{3um}
comprysed landis. Jac. 3. parl. 5. act. 36. in medio ^{Genus}
 The 20 *novembris* 1469. leg. burg. c. 94 et 95. Quon.
 20 attach. c. 4. Stat. Alex. c. 24. Jac. 5. parl. 7. act.
 106 in fin. 14 *Martii* 1540.

ffourtlie of fourtie 3eiris Aganis all *personall* obli- 4 ^{Genus.}
 gationis. Jac. 3. parl. 5. act. 28. The 20. *Novembris*
 1496. Item siclyke of fourtie 3eiris *prescriptioun*
 25 anent *productioun* of *procuratories* or *infestmentis* of
resignationis, *preceptis* of *clare constatt* *preceptis* of
seasingis of landis or *annuelrentis* *possessit* be *the*
 space of fourtie 3eiris. Jac 6. parl 14. act. 214.
 The 8 Junij 1594. Item last of all Anent pre-
 30 scriptioun of heretabill *rychtis* of ony persone except
minouris, the *samin* *prescryves*, *quhairas* the pos-
sessouris and thair *athouris* ar nocht habill to schaw
 35 *charteris* and *seasingis* *witht* heretabill *possessioun*
 following thairupoun but *interruption* *the* space of
 fourtie 3eiris *continuallie* *togidder* but brek. Jac. 6.
 parl. 22. act. 12. *the* 28 Junij 1617.

Exceptionis in ipsa causa. C. 15.

Last of all The defender suld propone all his exceptionis peremptoris in ipsa causa, sic as he may guidly of the law and practik use to elyde, and tak away the persewaris actioun.

5

Eftir ane terme is assigned for probatioun
Na exceptioun suld be proponed, Except
Emergent [exceptionis onlie]. C. 16.

Eftir the lybell is admittit to probatioun, and ane terme is assigned, for preving thair of, The defender suld
nocht be harde, to propone any exceptioun or defence :
110. Because Litiscontestatioun is maid be admissioun of the
lybell to probatioun, And sua stopis, and stayis all
Fol. 107. defences, to be proponit [and admitted] thaireftir, Except the samir be Emergent, or of new cumin to his
knowlege, quhilk exceptionis, may be allegit and ressavit
be discretioun of the lordis, as also ar competent, to
reduce the decreit, As salbe heireftir declaired. Vid.
Reductioun Tit. [ult. vel] 40. [Anent Emergent or de
novo ad aures]

20

The Sextene Tytill

Off definitioun and divisioun of exceptionis,
Contenand .thrie. Captouris.

Definitioun of exceptionis. Cap. primus.

Exceptio definitur, Actionis exclusio, for lykeas the
pursuit, and actioun pertenis to the perseware, and is intenttit be him, aganis the defender : Sua the exception
is competent to the defender, quhairby he may defend
himself, aganis the persewer, and tak away elyde and ex-

25

clud his actioun, clame, and¹ petitioun ether dilatorie to ane certane day : or peremptorie and peremptourlie² for evir. l. 2. ff. de exceptionib.

Divisioun of exceptionis. Cap. 2.

5 Exceptionis May be divydit in thrie kyndis, declinatouris, or recusatouris, aganis the judge dilatouris or peremptouris.

exceptionis declinatouris or dilatouris.

C. 3.

10 Bot because exceptionis declinatouris, may be comprehendit under dilatouris, and ar of the lyke natour & effect ; All exceptionis may be divyded generalie in twa sortis, that is dilatouris and peremptouris ; d. l. 2 ff. de exceptionib.

15 The sevintene Tytill

Of exceptionis diclinatouris Contenand .sevin
Captouris

The cause quhy ane exceptioun is called
diclinatour. Cap. primus.

20 An exceptioun is called diclinatoria, a differendo, Because the nature and effect thair of, is to differ, and delay, the actioun, and clame of *the persewer*, to ane certane day and terme, and dois nocht tak away *the samyn* perpetuallie.

25 Exceptioun temporall. Cap. 2.

And thairfoir is called also, an exceptioun temporall because it stayis, and stopis, the intensioun of the

¹ "or" in University Library copy.

² "perpetuallie" in University Library copy.

persewer, for ane certane space of tyme, And sua is helpfull to the defender, to obtene absolutioun to him for that tyme onlie. et ab Illa instancia iudicii and nocht perpetuallie in all tyme cuming. d. l. 2. ff de exceptionib.

5

Exempill of ane dilatour exception C. 3.

As for ane exempill. I am obleist to pay to Titius, the summe of ane hundreth pundis, at whitsonday nix cummis. Gif Titius callis and *persewis* me for payment of the said summe, at any tyme befor whitsonday I 10 may allege dilatorie, that I suld be absolved fra *that* persuit Because the terme of payment *that* is whytsonday, is *nocht* cum et ante diem, vel terminum solutionis, debitum, peti non potest, Et dies adjicitur obligationi in favorem debitoris: This exceptioun is 15
Fol. 108. called dilatorie Because it delayis the payment of the det [onlie] to whitsonday, quhilk is the terme of payment, and takis *nocht* away the det itself Because I will be compellit to mak payment of *the* said summe to Titius eftir whitsonday, Nochtwithstanding the said 20 exceptioun.

The tyme of the proponing of dilatouris.

Cap. 4.

All dilatouris exceptionis, suld be proponit, befor any peremptoure exceptionis, ffor gif *the* defender proponis, 25 ane peremptour, he will *nocht* be hard thairefter, to propone ane dilatour. Quia exceptio peremptoria perimit, et quasi occidit causam; dilatoria vero eam continuat, et ad tempus differt. Et naturaliter fieri non potest, ut id quod peremptum et mortuum est, per 30 exceptionem peremptoriam, possit differri vel continuari ad tempus, et quasi reviviscere per exceptionem dilatoriam.

Dilatouris suld be proponed at twa tymes / at
the farrest. Cap. 5.

All dilatouris may be allegit be *the* defender at ane
terme, gif he pleis sua to do : Alwyis he suld propone
5 thame all at twa tymes : ffor the lordis, grantis onlie to
the defender, Twa ansueiris, or interloquuto~~ur~~*is* upoun
dilatouris proponed be him ; Jac. 5. parl. 5. act. 67.

Probation of ane dilatour. C. 6.

Exceptionis dilatoure, at quhat tyme sævir they be
10 proponed, suld be instantlie verified, and Na terme suld
be assigned for proving thair of, *Statute* be the lordis.
13 Junij 1532. Vid. l. *exceptionem* [19] C. de probat.

Off ane dilatour nocht provin. C. 7.

Gif ane dilatoure proponed, and admitted to be
15 provin, is nocht provin, the proponare thair of, salbe
haldin to pay the expenssis, of the pley Incontinent to
be modified be the lordis, And sall na wyse be per-
mitted to propone or use any mæ dilatouris in that
Instance. *Statute* be *the* lordis. 13. Junij 1532. Jac. 6
20 parl. 6. act. 19¹ in fin.

The auchtene Tytill. Off exceptionis peremp-
touris. Contenand .Sex. Chaptour~~is~~*is*

Quhairfoir ane exceptioun is Called peremp-
toure. Cap. *primus*.

25 Exceptionis ar called peremptouris a perimendo Quia
causam perimunt, et prorsus extinguunt, ut nunquam
possit postea resuscitarj d. l. 2. ff. de exceptionib.

¹ "91" in University Library copy.

Perpetuall exceptionis. C. 2.

They ar also called perpetuall, for ane peremptoure
 exceptioun proponed, and lauchfullie provin, causis
 the proponer thair of, to be perpetuallie and simpliciter
 absolved, sua that he Nevir may be persewed in that
 Fol. 109. actioun *quhilk* is Elyded be the exceptioun [peremptoure]
 in any tyme thaireftir.

Exempill of ane peremptour exception. Cap. 3.

As for exempill I obleis me to pay to Titius at
 whitsonday nixt *cummis*, the *summe* of ane hundreth 10
 pundis, the [said] terme of whitsonday beand bypast.
 he persewis me to mak payment to him of the said
summe I propone to him ane exceptioun of payment.
 and alledges that he is alreddie payed and satisfied,
 This exception is peremptoure. *Quia solutione eius* 15
quod debetur, tollitur omnis obligatio, and sua gif I
 prove *the* payment maid to him I suld be simpliciter
 absolved, and may Nevir be craved thereftir for the
 said *summe*.

The tyme of the proponing of peremptouris 20
 C. 4.

Exceptionis peremptouris suld be proponed befor
 litiscontestatioun, Conforme to the practik of this
 realme; and the proponer hes libertie and fredome
 to propone thame, all at ane tyme: or at severall, 25
 and diverse tymes, And upoun ilk exceptioun peremp-
 tour proponed severallie, he may desyre ane severall
 ansueir & interloquoutoure of the lordis.

Reply. Cap. 5.

As ane exceptioun takis away the persewaris lybell, 30
 Sua the persewer, may fortifie his Lybell, be ane reply,

and theirby Elyde, and tak away the exceptioun, and therefor *the* Reply is called pars libelli ane pairt of the lybell or exceptionis exceptio. l. exceptio. 22 ff. de exceptionib.

5 Duply Cap. 6

And lykewys, the defender, *quha* propones the exception. ffor fortificatioun thair of may propone ane, Duply aganis the lybell and Reply. And siclyke, the persewer may alledge ane Triply, aganis the Duply: And also
10 the defender may propone ane Quadruply aganis the Triply; And sua exceptio excludit actionem et replicationem; Et contra Replicationem datur Triplicatio, Et contra Triplicationem, Quadruplicatio. l. 2. ff. de exceptionib. And these ar used and observed befor
15 *the* lordis of counsell and sessioun as supreme iudges, bot ar nocht permittit to be proponit befor all *utheris* inferiour judges, *quha* onlie ressavis exceptionis for *the* defenderis, at twa termes or tymes, first *thair* principall and nixt *thair* eikit defenssis. To *the quhilkis the per-*
20 *sewaris* replyis aganis *the* principall defenssis, and nixt answeris to *the* defenderis eikit defenssis / Lykeas all inferiour iuges gevis bot twa interloquutouris *thair-*
upoun. Reservand and referrand to obiect and answer
25 sentence *definitive* to be discussit with *the* proces at *the* pronouncing thair of to *the quhilkis the* defenderis suld be *summonit*.

The nyntene Tytill.

Off Litiscontestatioun Contenand 3 Chaptouris.

30 *Quhen* litiscontestatioun is maid. Cap. primus.

The second pairt of ane procese is Litiscontestatioun, *quhilk* be the practik of this realme is understand to 107 (16.)

Lines 23 to 27. From "to" to "summonit" written on margin of folio, a portion of which has been cut off in binding the MS.

be maid, quhen in judgement the defender denyis the lybell, and ane terme is grantted for preving thairof, Or quhen the lybell onlie, or the lybell and ane Reply is admitted be the iudge to be provin be the persewer, and ane day or terme is assigned to him for proving 5
 Fol. 110. thairof. Or litiscontestatioun is quhen ane exceptioun onlie, or ane exceptioun *witht* ane duply is admittit to the probatioun of *the* defender and ane terme [is] assigned to that effect. Jac. pri[mus]. parl. 6. act. 86.

Litiscontestatioun stoppes all defense. Cap. 2. 10

Eftir litiscontestatioun, the defender may nocht use nor propone exceptionis, aganis the persewer as said is / Because generallie eftir litiscontestatioun the pairtie to quhome and in quhais favouris it is grantted, suld lauchfullie prove that, *quhilk* is admittit to his probatioun ; Or 15
 ellis gif he failze[is] in preving thairof: he tynis the caus, be the *commoun* reule of the law. Actore non probante, reus absolvitur. Statute be the lordis. 16. Novembris 1579.

Rescinding of litiscontestatioun. C. 3 20

It wes ordaned, that all witnes salbe called ay and quhen they ar productit, eftir litiscontestatioun gif lauchfull oportunitie may be had, and gif *the* saidis witnes compeir nocht at the secund or thrid terme of probatioun quhair all dilatouris and peremptouris ar past by, than 25
 the saidis witnes may be ressaved at the discretioun of the lordis, eftir litiscontestation, gif the procuratour of the defender, gevis juramentum malicie that he had iust dilatouris, or peremptouris, exceptionis to propone in the first terme, quhairthrou the lordis may knaw, 30
 that the said mater is disputabill, and in that case to abyde and remane upon the ordour of the Roll. Statute be *the* lordis. 13. Junij. 1532.

Bot now the lordis uses to rescind *the* litiscontestation in favouris of the defender, he payand the expenssis of the witnessis, and proponing ane peremptour exception and provand the samin instantlie Utherwyis they
5 reserve to him his exceptionis to be proponit be him be way of suspensioun of the decreit or reduction *thairof*.

The twentie Tytill Off Probatioun, Con-
tenand Aucht Chaptouris.

10 The persewer suld preive his lybell and
the defender his exception. C. 1.

The persewer suld preive his libell being admittit to his probatioun, and nocht elydit be ane relevant exception; And lykwais gif the defender proponis ane
15 relevant exceptioun, aganis *the* libell he suld prove the samin, Sua as the persewer preivis his libell, the defender suld prove his exception, Bot the libell and exceptioun, suld nocht baith be admittit to probatioun, ffor the admissioun of the ane, stayis and excludis the
20 admissioun of the uther. l. 1. [C.] de except[ionib]. Stat. 2. Rob. 1. c. 23. Secundum vulgatam juris regulam alleganti Incumbit onus probationis. l. 2. ff. de Fol. 111. probat[ionib].

Ane terme for proponing of all defencis.

25 C. 2.

Gif ony terme of probatioun is assignit, be *the* judge, to the persewer, or to the defender to gif in and produce all wreittis, *quhilkis* ether of thame, will use for probatioun of thair intent, with all [thair] defensis,
30 *quhilkis* he will use in the cause. And it suld be declarit be the lordis, quhow mekill of it requyris

probation be writ, *quhilk* beand productit It salbe lesum to *the partie* adversare to say aganis the samin eftir the renunciatioun of forther probatioun be maid be *the* proponer of *the* said exceptioun, or protestatioun of the partie adversare admittit aganis forther probatioun thair of, And gif they produce nocht all at the samin terme, they sall nocht be hard to use ony forther probatioun theireftir. Mar. Reg. [1] parl. 7. act. 63. Practised be the lordis 29 Novembris 1540. Corstorphin *contrar* forrester. 10

Wreittis may be productit befor the conclusion of *the* cause. C. 3.

Utherwyse gif na sic terme be assigned wreittis Instrumentis, or uthir evidentis may be produced befor the conclusioun of the cause : 15

The persewer refusand to prove. C. 4.

Gif the defender denyis the perseweris libell or petitioun, and the persewer, refuse to prove the samyn The defender suld be simpliciter absolved fra *the* petition of *the* persewer. Prac[tised befor the lordis] 20 3 Martii 1550. et .24. Decembris 1554. [Charlis] Ros *contrar* Kirkmichell.

Mony peremptouris being proponed, the proving of any ane is sufficient. Cap. 5.

Dyverse and sindrie exceptionis, or uthir defensis 25 peremptouris, quhair of any ane is sufficient to obtene victorie in the cause being admitted to probatioun, to be provin severallie, gif the pairtie proponare thereof, Prove any ane of thame sufficientlie, decreit suld be gevin in his favouris, Albeit he failze in probatioun of 30 the remanent exceptionis, or defensis. Quia quando

aliqua sunt penitus separata, uno probato, reliqua probare non est necesse. l. neque 10. et ibi Bald. C. de probat. [20 Julij 1557 Bischope of Dumblane contrare Chisholme]

5 Electioun of probatioun. C. 6.

Gif any of the pairties electis and chusis, ane forme and kynd of probatioun, he may nocht pas fra the samin, and use ane uther maner of probatioun, As gif he offerris him to prove be witnese, he suld nocht be
10 permittit to resyle fra witnes to prove the samin, be aith of pairtie, or utherwyis. Or gif he tak to prove be the aith of pairtie, he may nocht prove *the* same be witnes.

 He is *condamned*, quha in action of
15 spulze faillis in proving of his excep-
 tioun. Cap. 7.

In actionis of spulze, gif the defender propone ane peremptoure exceptioun aganis *the* libell, and proves nocht the samin sufficientlie *Condamnatoure* suld be
20 gevin aganis him Conforme to the lybell, Because in Fol. 112. this caise, it is nocht necesser to the persewer, to prove his lybell, or any pairt thereof, Be ressone all the lybell is [to be] understand to be provin Inrespect of the defenderis failze nocht prevand his exceptioun.

25 Off parties failzeand in probat^{ion}. C. 8.

Quhen the libell and ane Reply, ar admittit to be provin be the persewer, gif he failze to preif any ane of thame, he tynis the cause, and *the* defender suld be absolved: Nam actore non probante reus absolvitur;
30 And quhen ane exceptioun and [ane] duply suld be provin be *the* defender, and he happin to failze, in

probatioun of any ane of thame, he suld be condemned,
Be resson he failzeis in probation Nam reo non pro-
bante actor absolvitur. etc.

The twentie ane Tytill

Of diverse kyndis of probatioun Contenand .2. 5
Chaptouris¹

Thrie kyndis of probatioun, ar used commonlie in
civile causis, Conforme to the law of *this* realme. lib.
3. c. 6. c. finem. 5. et ibi gl[os]. in verb. fundaverit. de
dol. et contum. extr.

10

Probation be confession of partie. C. 1.

The first is [the] aith of pairtie, or be his confession,
quhilk is equivalent to [his] aith, or to ane decreit of
ane judge And speciallie Confessio iudicialis acceptata
per partem, probat contra confitentem; quia nemo 15
presumitur aliquid confiteri in sui ipsius preiudicium, et
læsionem preterea inter simplicem loquelam, et jura-
mentum, deus non facit differentiam, And sua ane con-
fessioun proves sufficientlie aganis the maker thairof,
anent all thingis quhilkis ar confest: lib. 1. c. 14. 2. 20
l. publica. 16. in fin. et ibi Bartol. ff. deposit. l. 13. C,
de non Numer. pecun. l. 1. l. 5. ff. de jurejur. Stat. David
2. c. 6.

Probation be Wreit. Cap. 2.

The secund kynd of probatioun is be writ, As be 25
chartare, Seasing, Retoure, Obligation, acquittance, l. in
exercendis. 15. C. de fid. instr. lib. 1. c. 25. 12. lib. 3. c.

¹ In the University Library copy this Title is divided into four
chapters.

8. And decreittis and evidentis extracted furth of publict registeris. Authen. ad hæc. C. de fid. instr. l. gesta 6. C. de execution. rei judic.

The thrid [kynd of probatioun] is be witnessis unsuspect
5 and *thair* depositionis And probatioun of testament, testamentaris and datives of the wyfe of any persone be the husband As caput domus, quhen utheris ar confermed executouris by *the* husband The funerall expenssis suld be gevin up be his declaration with the servandis
10 fies, and may be provin be his aith vid. admirall and schip lawes fol. 321. anent probatioun The dewitie of the ground, or house maill and utheris vera debita to be provin be *the* landis laird, or creditouris and utheris famous witnese quhatsumevir. *Quhilk* suld be defalked
15 and defeased in *the* actioun and cause of devisioun or in the testament etc.

The twentie twa Tytill.

Fol. 113.

Off the aith de calumnia seu de malitia. Contendand .15. Chaptouris.

20 Thrie kyndis of aithis. Cap. 1.

Thrie kyndis of aithis ar *commonlie* used in procese, That is juramentum Calumniæ, juramentum in litem, Et juramentum veritatis, *quhilk* is also called juramentum decisorium litis.

25 Aith de calumnia. C. 2.

The aith de calumnia is nocht propirlye ane forme or kynd of probatioun as the uther twa kyndis of aithis ar. Nevirtheles because it is *commonlie* used in judgement, It is necessare to understand, *quhat* it is, and quhen and
30 be quhome it suld be asked and takin.

Quhairfoir it wes Inventted. C. 3.

This kynd of aith is Inventted and used, to stope the malice, and wickednes of men, to pley, or to vex or trubill thair nychtbouris, maliciouslie, *contrare* equitie and law. l. 1. C. de jurejur. propt. calum. dando. 5

The persewer suld sweir. C. 4.

And thairfoir it is lesum to the defender, to desyre the persewer, to gif his aith de calumnia, gif he hes, or [that he] belevis, that he hes iust cause, to persew his lybell, as it is libellit, and consaved be him. l. 2. de jure- 10 jur[an.] propt. calum. dand.

The defender suld sweir. Cap. 5.

Lykewyise It is lesum to the persewer. to desyre the aith of the defender, gif he hes iust cause to propone his exceptionis, or any ane aganis him. Authen. princi- 15 pales. C. de tit.

The procuratour suld sweir. C. 6.

The aith Beand asked in judgement, suld be gevin be the procuratouris, of the persewer or of *the* defender, quha may be compellit to sweir in animam constituentis. 20 Viz that he hes iust cause to persew the lybell, or to propone the exception for *the* defender as he is informed, and that it appeiris to him, *that* the informatioun gevin to him, be his clyent is trew. Jac. pri. parl. 9. c. 125. l. rem. 12. C. de iudic. Authen. principales. C. de 25 jurejur[an]. propt. de calum. dand.

Aith of the procuratour stayis *nocht* the
[aith of the] pairtie. Cap. 7.

And albeit the procuratoure hes gevin his aith
Nevirtheles the partie for quhome he procuris, may be
5 *compellit* to gif his aith, and contrariewis. l. 2. C. de
jurejur. propt. de calum. dand.

Quhen suld this aith be maid. C. 8.

This aith may be craved, and asked, be ather of *the*
pairties, or be thair procuratouris, and suld be gevin and
10 maid in any pairt of the pley, in the *begynning*, Middis
or ending thair of befor *the* geving of *the* decret.

Of the pairtie present. Cap. 9.

And gif the persewer or defender is *present* at *the* bar
beand in judgement, he may be *commandit* and chargit
15 at *the* desyre of the contrare pairtie to gif his ayth
instantlie.

Of the pairtie Absent. Ca. 10.

Fol. 114.

And gif he is *nocht* present, at the desyre of the uthir
pairtie, letteris of *summonis* may be direct, To charge
20 him to compeir to gif his aith, quhilkis *letteres* suld be
execute aganist him be ane Messinger [or officer] of
armes personallie apprehendit, and be na uther nor na
utherwayse.

Of the partie comperand Cap. 11.

25 And he beand [sua] lauchfullie warned, he suld
compeir personalie in judgement, and gif his aith, and
nocht be his *procuratour* to *that* effect.

Of the pairtie nocht comperand Cap. 12.

And gif he failzeis to compeir, or compeiris, and refuses to mak faith : he is hauldin pro confesso. Quia de iure si actor non vult jurare de calumnia cadit ab actione : Reus vero nolens jurare, habetur pro confesso. l. 2. §. quod si actor. C. de iurejur. propt. calum. dand. c. ult. de juram. calum. extr.

The forme of the aith Ca. 13.

Alwyse the persewer or the defender beand requyred to sweir upon the lybell or exceptioun, be the law, he is nocht obleist to gif his aith upoun everie particulare heid and poynt of the lybell or exceptioun.

The perseweris aith. Ca. 14.

Because the persewer is onlie obleist, to sweir that he hes, or that he belevis [that] he hes iust cause to persew the lybell intended be him as it is lybellit, or to deny the exceptioun or allegiance proponed aganist him. l. 2. § si autem et ibi glos. C. de iurejur. propt. calum. dand.

The defenderis aith. Cap. 15.

20

And the defender suld sweir, That he hes iust cause to deny¹ the lybell as it is intended, and lybelled aganist him, or to propone the allegiance and exceptioun aganist the persewaris lybell and clame.

¹ "defend" in University Library copy.

Off the aith of veritie. Titill Twentie
thrie Contenand fywe chapteris.

Fol. 115.

Quhairfoir it is called [the] aith of veritie.
Cap. *primus*.

5 Albeit there be thrie kynd of aithis commonlie used
in judgement, Twa therof hes the full force and effect
of probatioun, quherof this is the first, called the aith
of veritie, or decisorium litis, Because it decydis, and
puttis ane fynall end to the pley: And controversie
10 betuix *the* persewer and the defender. l. 1. l. 2. ff. de
iurejur. l. 1. et tot. tit. C. de rebus credit. et iurejur.

The aith of the defender. C. 2.

And quhere the persewer referris the det acclaimed
be him to the aith of the defender, quhither it be
15 iustlie awand or nocht. In this caise the defender
salbe compelled to sweir, that the det is awand or
nocht awand, Or to refer the samin agane to the aith
of the perseware. Or to mak payment of the det.
Quia in hoc casu Reus cogitur jurare aut juramentum
20 referre actori, aut debitum solvere. Stat. Daud. 2. c.
6. lib. 3. c. 7. l. delata. 9. et. ibi. Bartol. C. [de] iurejur.
l. manifestæ. 38. l. iurejur. 34 § ait. ff. de iurejur.

Of the persewer refusand to sweir.

Cap. 3.

25 Quhen the defender referris the det, to the aith of
the persewer, and the persewer refuse to sweir, The
defender suld be absolved *simpliciter*. l. generaliter. 12.
C. de iurejur.

Of the persewer gevand his aith. Cap. 4.

30 And gif the persewer gevis his aith, The defender
suld be condemned, or absolved, Conforme to the
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tennour of the aith maid be the persewer. Nam iurejurando [de] causa cognita res deciditur, et ex jurejurando nascitur actio, vel exceptio ad similitudinem judicati. l. 3. l. actori 8 ff. de jurejur.

Anent the qualitie of the aith of veritie.

5

Cap. 5.

Fol. 116. It wes statute and ordaned be the lordis of counsall and sessioun, That quhensaevir any summonis, exceptioun, or reply, sall heireftir be referred to the pairties aith of veritie, That *the* partie quha is to gif his ayth 10 thereupoun, salbe haldin at the dyet assigned to him for that effect, To declair judicallie any conditioun that he intendis [to] adject to his aith, Quhilk gif he omit to declair judicallie any conditioun in judgement befor he depone. The saidis lordis declairis, that na respect 15 suld be had to ony sic conditioun adjected to his aith, bot *that* *thai* wald avise the procese, and fynd the mater provin or nocht provin, according to the tennour of the aith, without any respect to the conditionis adjected to his depositioun and nocht declared in iudgment And 20 gif any sic iudiciall declaratioun be maid be the pairtie to be sworne, that he intendis to adject any conditioun to his ayth and depositioun In that caise It salbe lesum to the pairtie, quha referris *the* summonis, exceptioun, or Reply, to his adversaris *aytht* to Resyle fra that 25 maner of lauchfull probatioun as gif he had nocht referred the mater to the parties aith. Statute be the lordis 7 Decembris 1613.

De juramento in litem Titill twentie

four: Contenand thrie chapteris.

30

In quhat causis this aith is used. Cap. primus.

The secund kynd of aith [is] used in forme of probatioun [and] is called juramentum in litem The *quhilk*

is used in certane actionis propter dolum malum rei,
vel eius contumaciam, qui jussui iudicis non obtemperat.
l. 1. l. 2. ff. de in lit. jurand.

In actionis of spulze this aytht and wit-
nese ar ressaved Ca 2.

5

And in actionis of spulze of movabill guidis violentlie
spulzed aganist ordoure of law, In this caise, he quha
is spulzeid, may prove be witnes that the committare
of the spulze intrometted *witht* ane pairt of the guidis
10 and geir lybelled and alleged spulzeid, *Quhilk* beand
provin, the valoure and quantitie of the rest of the
guidis contened in *the* libell is referrit to the aith of
the perseware, and sua he is maid iudge to the price
and quantitie of the guidis spulzeit frome him, and of
15 the dammaige *quhilk* he hes suffered throw the spolia-
tioun thereof: And sua this kynd of probatioun is
mixt pairtlie be witnese, and pairtlie be the ayth of
the perseware Because the intromissioun with ane pairt
of the guidis as said is beand provin be witnese, the
20 quantitie and estimatioun of *the* guidis spulzeid is
referred and provin be the persewaris aith, *quhilk* is per-
mitted be the iudge to be done in odium spoliantis.

The lordis may temperat this aith. Cap. 3.

Bot the lordis for sindrie considerationis and cir-
25 cumstances moving thame may moderate and modefie
this aith gevin be the perseware and reduce it to ane
certane quantitie. Ne in Immensum juretur, quia est
juramentum affectionis: Ideoque a iudice temperari Fol. 117.
potest. adeo ut iudex Minoris condemnare posset quam
30 juratum sit. l. 4 § iurare, ff. de in lit. jurand. l. Sancimus.
13. C. de iudic[t] Nam ut ait Bartol. in d. l. 4. iudex
non redarguit hic quenquam de periurio (quod solum
deum habet ultorem. l. 2. ff. de iurejur) sed de temeraria
affectu.

Off probatioun be writ
 Titill twentie ffywe
 Contenand .nyne. Captouris.

Exempillis of probatioun be writ. Cap. *primus*.

The second kynd of probatioun is called per scripta, 5
 as quhen the perseware proves his lybell, or Reply be
 ane instrument of seasing, ane charter, ane contract, or
 ony uther authentick writ, or evident, Or quhen *the*
 defender proves ane exceptioun or duply, be sic writ
 and evident as said is. lib. 1. c. 25. 12. quon. att. c. 81. 10

Production of wreittis. C. 2.

It is lesum to him, quha suld prove any thing be
 writ, to produce the wreittis, *quhilkis* he will use in
 modum probationis, at any tyme befor *the* conclusioun
 of the cause, specialle gif na terme is assigned to him 15
 for that effect. Mar. Regi. parl. 7. c. 63. c. cum
 delectus. 9. de fid. instr. extr.

Production of ane mannis proper evident.
 Cap. 3.

And gif it be his awin propir evident, he suld produce 20
the samin *withtout the* calling of any *uthir* partie or
 persone for production or exhibition thereof.

Fol. 118.

Off wreittis pertenyng to *utheris*. C. 4.

And gif the evident or writ pertenis nocht to him
 quha suld produce the samin, or gif *the* samin pertenis 25
 to him, and is in ane uther mannis possession ex probabili
 causa, Then incident diligence suld be grantted to him,
 and at his instance aganist all haifaris and possessouris

of the saidis evidentis quha had, or fraudfullie put
thame away To *compeir* at ane certane day, sic as the
day of *the* probation assigned in the principall cause
and to Produce the saidis evidentis for proving of his
5 lybell [and] exception etc. Mar. Regi. parl. 7. c. 63.

Incident diligence for production of wreittis.

Cap. 5.

And gif the partie defender in the incident diligence,
Compeiris and denyis the haifing of the wreittis clamed
10 fra him, or proponis any relevant exception, quheirby
he suld nocht be compelled to exhibit and produce the
samin, Then ane ordinaire form of procese, suld be led
and deduced aganist him be the perseware of the
incident diligence for proving of the wreittis, and haifing
15 *thairof* aganist him.

The incident [cause] stayis the principall cause.

Cap. 6.

And in the meanetyme of the dependence of the
incident diligence, The principall cause suld sleip, and
20 ceis untill the incident procese be first discussed and
ended.

The principall cause dependis on the incident.

Cap. 7.

Because the pairtie prevailland and victorious in the
25 incident procese of diligence, he will lykwyse prevaill in
the principall cause, and gif he failzeis in the incident,
he will siclyke succum and failze in the principall. Quia
principalis causa, dependet ex futuro eventu cause
incidentis.

30 Quhen *the* incident is granted. Cap. 8.

This procese of incident diligence for production of
wreittis in modum probationis is nocht commonlie

granted, to all pairties, bot to thame quha protestis for the samin, at the tyme of litiscontestatioun, quhen ane terme is assigned to him for probatioun of his lybell his exception or *ut*hir defens.

Probation of ane exceptioun be writ. Cap. 9. 5

Quhen any exceptioun is admitted to probation It salbe declaired be the lordis how mekill of it requiris probatioun be writ, and the *proponer* therof sall *produce* the writ in the terme assigned to prove or than to do sufficient diligence to cause it be produced, gif *the* 10 samin be *nocht* in his awin handis, and failzeand *thai*rof protestatioun salbe gevin aganist the probatioun of that pairt of his said exceptioun. And gif the writ beis produced, It salbe lesum to *the* pairtie adversare to say aganist *the* samin, eftir renunciatioun of forther 15 probatioun to be maid be *the* proponer of the said exception, or protestatioun of *the* pairtie adversare admitted aganist forther probatioun *thai*rof. Mar. Regi. parl. 7 c. 63.

Fol. 119.

Of probatioun be witnese.

Titill twentie Sex.

contenand twentie twa Captouris.

20

The thrid kynd of probation. Ca. 1.

The thrid kynd of probatioun maist comonlie used is be witnessis.

25

Tyme of probation. Cap. 2.

Quhilk forme and kynd of probatioun, and generallie all uther probatioun suld be ressavd eftir litiscontestatioun.

The tyme of calling of witnese. Cap. 3.

It wes statute, That all continewationis of proces befor the lordis, contening actis of witnes salbe called at the dayis assigned thereto, for expeditioun of the
 5 witnese and eschewing of expensis. Statute be the lordis .27. Maij 1532.

Witnese ad perpetuam rei memoriam. Cap. 4.

Witnese ad perpetuam rei memoriam, may be resaved, sworne and admitted, be speciall command of
 10 the lordis, and the pairtie warned to that effect. Authent. sed et si. C. de testib. c. quoniam. 5. ut. lit. non contest. extr. c. significavit de testib. extr.

Termes of witnese. Cap. 5.

It wes statute / that the ordinare lord in *the* uttirhouse,
 15 Call and ressave witnese, and assigne termes of probatioun in the uttir [house or] tolbuith, except quhen difficultie occurris, and than the samir to be schawin be him, to the rest of the lordis in the Inner counselhouse, and there to be decyded be thame. Statute be
 20 *the* lordis .27. Maij. 1532.

Taking ane new terme for witnese. Cap. 6.

At the terme of the ressaving, and admissioun of *the* witnese, the pairtie producer of the witnese suld tak ane new terme instantlie at the bar, befor the witnese
 25 be examined, and sall nocht defer nor delay quhill *the* morne.

Ressavyng of witnese. C. 7.

Witnese ar understand to be ressaved and admitted, quhen they ar lauchfullie sworne in judgement, in Fol. 120.

presence of the pairtie, or his procuratoure, aganist quhome they ar produced, or in absence of the pairtie beand lauchfullie summoned, to heir thame produced and ressaved.

Twa Witnese proves. C. 8.

5

The witnese proves sufficientlie, gif twa at the leist, accordis and aggreis togidder. Quia unus testis est [nullus]¹ testis, et testis singularis, quia non habet contestem in sua depositione non probat. l. ubi. 12. ff. de testib. lib. 1. c. 38. Jac. 6. parl. 6. c. 80 / c. 23 de testib. 10 extr. 2. q. 5. Et vox unius est vox nullius. l. jurisiurandi. 8. et ibi Bald. C. de testib.

The Numer of witnese. C. 9.

In all causes for proving of the libell be witnese: The lordis admittis onlie twentie foure witnese, that is 15 aucht for Ilk ane of the thrie termes, And for proving of ane exception or Reply lykwyse twentie foure, to be summoned at ane terme at the monyest. Statute be the lordis .22. Junij 1586. quest. 2. et. 3. per rationem legis 1 § quanquam ff. de testib.

20

Interrogatouris for witnese. C. 10.

The lordis ordayned, the pairtie, to quhom the summonis, or any allegiance is admitted to probatioun, to articulate all the heidis and poyntis, quhairupone they wald have the witnese examined, and Inquyred, and 25 delyver the samin to the lordis or clerkis of the procese, to the effect ane direct answer may be gevin to everie article be the witnese. Statute be the lordis 4 Novembris 1591.

¹ "nullius" in both copies.

Examination of witnese, and lordis in the
uttirhouse. Ca. 11.

The lordis fand expedient, that in all tyme *cuming*
there be foure of there ordiner Numer appoyntted for
5 billis, and witnese, quhereof the haille foure at the leist
thrie salbe evir astricted to attend togidder upoun the
examinatioun of the witnese, and the haille foure sall
aggrie amangis theme selfis, *quhilk* of theme sall pas
and heir the causes ressoned in the uttirhouse be the
10 space of fyftene dais togidder, eftir the Ische quhairof,
The lordis appoyntis *uthir* foure of there numer to
succeid in the lyke place, and sua successive foure and
foure, quhill the course *cum* about the [haille] numer,
and to returne to the foure quha first possest the first
15 place agane, according to this ordoure of divisioun
underwrittin, viz. they appoynt the *lordis* maircarny,
Kylsyth, Edzell and quhittingham to entir upoun
tyisday the nixt oulk, and to continew quhill fyftene
dais, And the nixt fyftene dais they appoynt *lordis*
20 advocate, Reidhouse, fostersait and previe seill, and
eftir theme, wrichtisland, secreter, Tungland, and
Medope for uthir fyftene dais, And incaise of any of
there absences, the iustice clerk to supplie there place,
and sua furth to returne agane to the first foure, and
25 to proceid ordourlie according to this divisioun in all
tyme *cuming*, And ordaned *the* lord examinatur quha
heiris the witnese examine, To subscriye at all the
dyettis, the depositions of the witnese, quhilkis he
examinattis, and to cause the samin be Closed be the
30 clerke of the procese, and stamped be the clerkis Fol. 121.
propir stampe, and sa to remane closed, quhill the
samin be oppynned in *presens* of the *lordis* at the
advising of the procese. Statute be *the* lordis .17.
Novembris 1610.

Examination of witnese, and houris ap-
poyntted thereto. C. 12.

The lordis depute and appoyntted for examination of witnese, that the ordinare lord sall convene everie day, as neid requyris in the counsalhouse at twa 5 houris eftir none with the clerkis of the counsall, and sall remane quhill foure houris in the examination of witnes or schorter or langare as neid beis, And all parties or there procuratouris suldbe warned to bring there witnese at the saidis houris. Statute be the lordis .27. Maij 10 1532. Jac. 5. parl. 5. c. 53.

Witnese of Improbation. C. 13.

It wes statute that the witnese of Improbatioun and in causis of falsett salbe ressaved and examinat in presens of [all] the lordis, as hes bene used of befoir. 15 Statute be the lordis 13 Junij 1532.

Depositionis of witnese suld be Stamped.
Cap. 14.

The depositionis of witnese suld be stamped be the lordis examinaturis with seill and walx : and suld nocht 20 be oppynned, at the secund and thrid examination, bot suld be wreittin upoun severall paper and all to ly closed untill the advising of the procese. Statute be the lordis .25. Octobris 1577. Venerabilj 52 de testib. 25
extr.

Expensis of witnese. C. 15.

Gif the witnese beand summoned, compeiris nocht the first terme haifand na lauchfull Impediment, Albeit they compeir at any terme thereftir, he quha produces theme sall nocht be compelled to pay there expenses, 30 they beand summoned at the first terme of compeirance /

and ane tikket gevin [to] theme personaly charged, or
affixed at there duelling places, Or delyvered to there
wyffes or servandis, to compeir to beir witnese in sic
ane cause, at sic ane day and sic ane place, and sua
5 indorsatt in the officeris executioun of the *letteres*.
Statute be the lordis .13. Junij. 1532.

Probation of *summes* abone ane hundreth
pundis scottis. C. 16.

It wes statute and ordayned, that quhatsumevir
10 persone or persones heireftir beand persewed for de-
liverie and payment of sowmes of money addetted
quocunque nomine, and opponis payment of the saidis
summes in haill or in pairt, ethir be way of allegiance,
duply suspensioun aut alio quovismodo, and offerris
15 thereby to elide the perseweris intent; Incase the *summe*
qualyfied in the exceptioun, duply or suspensioun extend
to the *summe* of ane hundreth pundis scottis money or
abone; the excipient or raisare of *the* suspension salbe
haldin and astricted, to prove payment thereof be wreit,
20 or be the aith of pairtie allanerlie and nawyse be
witness. *Statute* be the lordis .8. Junij 1597. The
lyke forme of probation, suld be observed be *the* per-
seware for proving of his lybell and reply founded upon
payment of sic *summes* of money as said is. Quia in
25 hoc casu actoris et rei par debet esse conditio. lib. i.
c. 8.

Off the pairtie compeirand or nocht Compeirand. Fol. 122.
Ca. 17.

Gif the pairtie, aganist quhome witness ar produced,
30 compeiris personallie or be his *procuratour* and speciallie
the tyme of litiscontestation. It is nocht necesser to
summond him, to heir and sie [the] witness ressaved,
at ony terme thereftir. Quia in hoc casu intelligitur
citatus apud acta, Ideoque non debet amplius citari. lib.

3. c. 32. 6. Bot gif nethir procuratour nor pairtie compeiris in the cause, [in that cause] he suld be summonit, to heir *the* witnese ressaved. l. si quando. 15. C. de testib.

Witnese compelled to compeir. C. 18.

All witnese beand lauchfullie summonit to compeir 5 and depone the treuth, anent the probatioun of *the* lybell exceptioun reply or uthir defence, and nocht comperand bot refusand, or delayand to compeir may be compelled to compeir and depone. c. i. et tot. tit. de testib. cogen. extr. l. si quando. 15. C. de testib. 10

The panes of witnese nocht Compeirand.

Cap. 19.

The lordis declairis in tyme cuming, the first pane upon all witnese to be summoned, for proving of all kynd of materis principall causis and lybellis, to be 15 under the pane of rebelloun, The nixt rebellion with certificatioun, and the thrid denunciatioun to the horne, and thereftir captioun. Statute be *the* lordis .16. Novembris 1579. And because ane terme onlie is assigned for proving of ane exceptioun, or duple, gif the 20 witnese summoned compeiris nocht, forther deligence suld be grantted aganist theme under the panes foirsaid.

Witnese in treason and heresie. Cap. 20.

The lordis of counsall and session (beand Inquyred be the king his maiestie King James the sext quha 25 restis with God of all wirthiest memorie) as personis best xprementted in the law? Quhat persones may be witnese in causis of liesemaiestie, and heresie. Ansuered and declaired, That according to the law, Infamous personis, wemen, barnis, or personis beand fellows in 30 the samin crymes, May be witnessis in the saidis causes

of treasone, and heresie. 5. Junij .1591. c. 2. de testib. extr.

Lykeas the wyfe and servandis men or wemen of the pairties persewaris or defenderis may be witnese for
5 servandis hyring and there fies, and for *uthir* domestik and houshould effairis resulting *thairupon* etc. and that may nocht uthirwyse be provin, Bot in spec^{ia}ll in schip buird, on the sea, quhere na uthir witnese ar bot the marynaris there boyis or servandis sib of consanguinitie
10 affinitie or uthirwyse *conforme* to *the* commoun law. l. vir quoque. C. de repudiis. Vid. admirall and sea lawes in fin. fol.

Letteris of horning may nocht be provin be witnese. Cap. 21.

15 It wes statute that na tennour of *letteres* of horning executionis or indorsationis thereof, nocht extant nor produced judiciaillie, Sall be admitted to be provin be Fol. 123.
witness in quhatsumevir action or cause persewed or to be persewed be the liegis of this realme befor quhat-
20 sumevir iudge or judges within *the* samyn. Jac. 6. parl. 6. c. 94.

The possession of kirklandis be the space of fourtie 3eiris at the leist threttie 3eiris may be provin be witnese. Cap. 22.

25 The lordis of counsall and sessioun haifand consideratioun, that in the tyme of reformatioun of religioun within this realme, the auld fundationis, mortificationis and utheris wreittis, and securities of kirklandis and rentis pertening to kirkis *withtin* this realme and
30 kingdome war for the maist pairt destroyed, loist and perished throw the Iniurie of that trubilsum tyme. Quherthrow the lordis of counsall and sessioun for the tyme and sensyne hes bene in use in tyme bygane to

decyde all *contraversies* arrysing upoun the richt of kirklandis and rentis pertening to kirkmen, quhair na mortificationis, infestmentis utheris rychtis nor tyillis be wreit war extant, be there possessioun *quhilkis the* said kirkmen had and bruiked of the *samin* kirklandis 5 and kirkrentis *the* tyme of the reformatioun of the said religioun, and be the space of Ten 3eiris nixt and Immediatlie preceding the *samin* reformatioun / And now the saidis lordis understanding, that it is fyfentie 3eiris syne with the mair bygane sen the reformatioun of *the* 10 said religioun, quherethrow eftir sa lang a space witnese may nocht be gottin to prove, and verifie the foirsaid kirkmen, there possessioun of there kirklandis and rentis ten 3eiris togidder nixt and Immediatlie befor the reformatioun of the said religioun. Therefor the saidis 15 lordis than *presentlie* declaired, that in all tymes cuming eftir the dait of this present act [underwreittin], they will decyde and discuse all actionis, questionis and *contraversies* arrysing betuix pairties anent the richtis of kirklandis rentis and Levingis pertening to kirkmen be 20 there possessioun of the *samin* kirklandis and rentis *thair*of be *the* space of fourtie 3eiris at the leist threttie 3eiris *continewallie* and Immediatlie preceding the intentting of there actionis or proponing of there defensis *concerning* there rychtis to *the* saidis kirklandis and 25 rentis thereof in all tymes heireftir to be *provin* be famous witnese, quhen as the *samin* foundationis, mortificationis and utheris authentik wreittis sall nocht be alleged schawin and *produced* in judgement to verifie the saidis kirklandis and kirkrentis to appertene and to 30 have appertened to the kirk of befor. *Statute* be the lordis. 16 Decembris 1612.

Vid. fol. 268. Of Religius tyillis Annotatio.

Item probatioun of *summonis*, Anent ocker and usurie and takeris *thair*of may be *provin* be writt or aith of 35 pairtie ressaveris of unlauchfull *proffett* and be witnessis insert in thair securities maid for the principall sowmes

without ressavng of the ayth of the pairtie gevare of *the* saidis unlauchfull proffettis for eschewing of all occasioun of perjurie etc. Jac. 6. parl. 16. act. 7. 15 Novembris 1600.

5 The twentie sevin Titill. Fol. 124.
Of probatioun of the lybell be witnese, Contenand
foure chaptouris
Thrie termis of probatioun of the lybell. Cap.
primus.

10 Quhen the lybell onlie is admitted to probatioun thrie
sindrie and diverse termes of probation *thair*of is
grantted to the perseware: Sua he may *summond* sum
witnese, to compeir the first terme, [and sum utheris
diverse frome theme, at the second terme,] and sum
15 utheris diverse frome theme at the thrid *terme* of
probatioun.

The thrid terme. Cap. 2.

At the thrid terme he suld *summond* all theme
quhome he will use as witnese in that cause. Becaus at
20 the thrid terme It is nocht permitted to him to *sum-*
mound any ma witnese *than* war *summoned* be him of
befoir at the first terme or secund. Vid. c. in causis de
testib. extr.

Witnese nocht compeirand at the thrid terme.
25 Cap. 3.

Gif the witnese, quha war *summoned* of befoir
compeiris nocht at nane of the saidis thrie termes,
they suld be denunced rebellis, and put to the horne,
and all there movabill guidis suld be inbrocht to the
30 king his maiesties use, be ressonne of there rebelloun:

And mairover the lordis directis *letteres* of captioun, to the schireff under quhome they duell, or to ony uthir ordiner magistrattis as they sall think maist expedient to tak and apprehend *the* witnese quha ar denounced rebellis.

5

Diligence aganist the witnese onlie
summoned. Cap. 4.

Albeit thrie termes be grantted to the persewer, and diligence as said is for probation of the lybell, 3it na diligence suld be grantted to him bot aganist sic witnese 10 as war lauchfullie summonid at all the saidis thrie termes, and war contumaces and compeired nocht.

Fol. 125.

The twentie aucht Titill.

Of probation of ane exception be witnese.

Contenand .2. *Chaptouris*.

15

The defender suld prove his exceptioun or
defence Cap. *primus*.

Lyke as the persewer suld prove his lybell sua *the* defender suld prove and verifie his exception or defense. lib. 3. c. 3. ii. Stat. Rob. 1. c. 23. Because qui dicit, 20 debet probare, et preterea qui de lucro contendit, debet subire onus probationis. l. 1. et ibi glos. ff. de probationib.

The exception suld be provin be ane terme
allanerlie. C. 2.

The forme and proving of exceptioun be witnese is 25 diverse and disconforme to the maner of *the* probatioun of the lybell, Because in the *probatioun* of the lybell, thrie sindrie termes ar grantted as said is, Bot for proving of the exception, ane *terme* onlie is assigned At *the* quhilk terme the defender *quha* suld prove the 30

exceptioun suld *sum*mound all *the* witnese to that ane
terme, *quhilk* he will use for proving of the *samin*, And
gif all the witnese compeiris in termino probatorio, that
is sufficient, and the cause will be haldin as concluded,
5 gif na uthir probatioun is necesserlie requyred be wreit
or *uthir*wyse, And gif they or ony of theme compeir
nocht in termino probatorio, that is at the first terme
assigned for probatioun, Letteris and *sum*monis of
diligence ar granted to the pairtie *producare* to compell
10 theme to compeir to depone as said is of befoir. And
the *letteres* [and] *sum*monis of diligence, suld *contene* na
ma names of witnese nor war *sum*moned and charged
be the formare *letteres* at the first terme of probatioun
allanerlie.

15

The twentie nynt. *Titill*.

Fol. 126,

Of probation of the Reply be witnese, Contenand
the ane chaptoure following.

[The persewer proponis the Reply. Cap. primus.]

Lyke as the defense or exceptioun is proponed be the
20 defender aganist the lybell Sua the reply is proponed, be
the persewer aganist the exceptioun for fortificatioun of
his lybell, And sua *the* reply is understand to be ane
pairt of the lybell. l. 2. ff. de exceptionib. l. non excep-
tionib. 10. C. eod. tit.

25

Nevirtheles ane Reply suld be provin in the samyn
maner as the exceptioun is provin, and nocht as the
lybell is provin, that is be assignation of ane terme
of probatioun onlie, for *sum*moning of witnese, and
be sic numer of witnese as is ressaved for probatioun
30 of the exceptioun, that is xxiiij And sua Albeit ane
exceptioun and ane Reply ar different 3it ane forme of
probatioun is ordayned for theme bayth to prove the
samin.

The threttie Tytill

Off circumductioun of the terme of probatioun,
contenand ffoure chaptouris.

Probatioun is stopped twa maner of wayis. Cap
primus. 5

All probatioun be aith, be writ be witness ceissis and
endis be twa wyis. The first is Circumductioun of the
terme, The uthir is Conclusioun of the cause.

Circumductioun of the terme maid be the
persewer. C. 2. 10

Circumductioun of the terme is quhen ane terme is
assigned be the iudge to *the* persewer for probatioun of
his lybell onlie, or of the lybell and the Reply, and he
compeiris nocht personallie nor be his procuratouris, nor
produces na probatioun nor diligence, [In this case, the 15
defender may circumduce the terme of probation,] In
respect of the negligence of the persewer In sic sorte as
the persewer tynis the cause and na forther probatioun
is granted to him, Conforme to the commoun reule
Actore non probante reus absolvitur. Mod. ten. cur. c. 20
22 [et c. 23.] Stat. 1 Rob. 1. ca. 30.

Fol. 127.

Circumductioun of the terme maid be the
defender. Cap. 3.

Lykewayse quhen ane exceptioun onlie, or ane excep-
tioun with ane duply is admitted to the probatioun of 25
the defender, and ane certane terme is assigned, for
probatioun thereof, gif he failzeis to produce sufficient
probatioun or diligence at the said terme, The persewer
may circumduce the terme assigned¹ him be resson of

¹ "aganist" in University Library copy.

his negligence Sua that the defender sall nocht be hard,
to use ony forther probatioun in ony tyme thereftir.
Mar. Regi. parl. 7. c. 63. Conforme to the commoun
reule. reo non probante actor absolvitur.

5 Quha failzeis at any terme of probation tynis
 the cause. C. 4.

And sua ane terme beand assigned to ony pairtie for
probatioun, of the lybell exception reply or duple, gif
he dois na diligence in deducing of his probatioun,
10 according to the desyre of the *terme* The day and
terme beand bygane, he suld nocht be hard to use
any forther probation in *the* samyn cause Quia terminus
probationis est peremptorius, et in hoc casu, exclusivus
probationum.

15 The threttie ane Tytill
 Off Conclusioun of the cause Contenand sevin
 chaptouris
 The probatioun endis. Cap. primus.

Secundlie all probation endis and ceisis be Con-
20 clusioun of the cause Quia conclusio cause, est exclusio
non solum exceptionum, sed etiam probationum.
Statute be the lordis .14. augusti 1590. c. quoniam 11.
de probat. extr.

 At quhat tyme the cause is Concluded.
25 Cap. 2.

The cause is understand to be Concluded *quhen* the
persewer or the defender, to quhome the probatioun
is grantted, hes used all probatioun quhilk be *the* law he
will or may use in the cause and judicialie renunces

all forther probatioun. c. cum delectus. 9. et ibi glo. in
verb. conclusum de fid. instr. extr.

Refusis, Silence, protestation. Ca. 3.

Or gif he refusis to renunce probation, or keipis
silence, and the uthir pairtie aganist quhome the proba- 5
tioun wes grantted in judgement protestis, that the
cause be haldin as concluded, the *quhilk* protestation
beand admitted be the iudge *the* cause is concluded,
Sua that thereftir na thing restis to be done, bot the
Fol. 128. iudge to advise *the* cause and decerne quhither that 10
quhilk wes admitted to probation is sufficientlie provin
or nocht provin.

Obiectionis contra producta. C. 4.

At the terme of the conclusioun of the cause *the*
pairtie aganist quhome the probatioun is used may 15
desyre and protest that it salbe lesum to him to pro-
pone and use his lauchfull obiectionis contra producta,
that is aganist all the wreittis *quhilkis* ar produced
aganist him in modum probationis. Mar. Regi. parl.
7. c. 63. 20

Næ obiectionis aganist depositioun
of witnese. Cap. 5.

Bot næ obiectionis aganist deposition of witnes is
admitted to the pairtie aganist quhome they ar pro-
duced, for there depositionis suld nocht be schawin to 25
him, bot suld be keiped close and secreit to *the* iudge
onlie. *Quia testimoniorum publicatio non est in usu.*

Act of conclusion of *the* cause. C. 6.

Næ proses albeit the samin be concluded suld be
advised, and decreit pronounced untill *the* act of 30

renunciatioun of forther probatioun and conclusion of the cause subscriyved be the clerk register be produced in iudgement with the procese. *Statute* be the lordis .4. Junij .1586. infra 133.

5 Næ persone admitted for his entres eftir the conclusion of the cause. Ca. 7.

It wes statute, That quhere probation is deduced, and forther probatioun renuned and sua the cause concluded, that na persone thereftir salbe admitted for
10 his enteres Nethir to produce any new wreittis nor to propone any new allegances or defenses be resson of richtis quhatsumevir. *Statute* be the lordis .14. augustii 1590.

The threttie twa Tytill Fol. 129.
15 Off Improbatioun of wreittis produced for probation. Contenand Sex Captouris
Inspectioun of wreittis takin to be Improvin.
Cap. *primus*.

Gif any writ be produced in modum probationis,
20 the pairtie aganist quhome the samin is produced suld have inspectioun thereof, for ane certane space of tyme, to the effect he may use and allege his lauchfull objectionis aganist the samin. l. si lis. 11. C. ad leg. Cornel. de falsis.

25 At any tyme falset may be proponed Cap. 2.

Of the quhilkis objectionis contra producta, the last is obiectio falsi, quhen the pairtie alleges, that the writ produced aganist him, or sum of theme can nocht prove aganist him, Because they ar fals and fenzeit
30 may be Improvin, The quhilk Improbation may be

proponed and admitted, at any tyme or pairt of the procese.

Improbatioun be way of actioun C. 3.

In the *quhilk* caise, the lordis aithir repellis at that tyme the objectioun of falsett, and reservis the falsett, 5 to be persewed and tryed be ordinaire way of actioun, and pronounces there decreit in the cause, and ordaynes the samin to have executioun as effeiris. l. 2. ad leg. Cornel. de fals.

Improbation be way of exception C. 4. 10

Or ellis the lordis stayis the pronounciatioun of the decreit in the principall cause, and admittis the exceptioun of falsett to be discussed as ordoure of law requyris. c. 2 de crim. fals. extr.

The termis of Improbatioun of wreittis 15
takin to be Improvin. Ca. 5.

In Improbatioun of wreittis, the lordis declairis that for schortnes of tyme and procese Na forther terme suld be assigned, bot twa charges for *production* of the wreittis, quherof the secund charge suld be *witht* 20 certificatioun, that in caise of non productioun, the samin wreittis salbe decerned, and declaired to mak na fayth. *Statute* be the lordis .25. *Octobris* 1577. 6 *Novembris*¹ 1579.

Caution in Improbation[is], at any tyme or pairt 25
of the procese Ca. 6.

Because diverse tymes pairties ar deferred and postponed of obteneing of there intenttis and sentences in

¹ "16th *Novembris*" in University Library copy.

there iust actionis be opponing of falsettis and Improbationis. It wes statute that *quhatsumevir* pairtie proponis falset and takis on hand to Improve any charter or uthir writ *quhatsumevir* befor the lordis or
5 any inferiour judge spirituall or temporall Næ terme Fol. 130.
salbe grantted nor affixt to him quhill he fynd caution, than *presentlie* acted in iugement, Or untill he him self be obleist and acted to pay ane pecuniall summe as pane arbitrall at the descretion of the lordis, or uthir
10 iudges Incaise he salhappin to failze in the Improbation of the said writ *quhatsumevir* offerred to be Improvin at any tyme or pairt of the procese, and tynis the principall cause; And forthir suld be adiuged be that sentence, to pay the said summe as *pain* arbitrale, at the
15 said iudges modificatioun and discretioun. Mar. Regi. parl. 7. act 62. Anno Domini 1557. 14 Decembris / Lyke as wes practized befor *the* lordis 15 Decembris anno predicto Walter makesone *contrare* [the] laird [of] Blebo.

The threttie thrie Tytill

20 Off the direct maner of Improbation Contenand
four chaptouris
Off the tryell therof. Cap. *primus*.

The tryell and inquisitioun of falsett be way of Improbatioun is used twa maner of wayse

25 Be quhome direct maner is done. Cap. 2.

The first is called the direct maner of Improbatioun be the witnese insert in the writ *quhilk* is takin to be Improvin, and be the writtare thereof quhais name suld be inserte in the writ. c. cum Joannes 10. de fid.
30 instr. extr. Jac. 6. parl. 13. act. 175. And began upoun the first day of November. anno domini .1593. be the auld style and compt of *the* 3eir of god in this realme

for the tyme for the 3eir of god wes changed fra *the* twentie fywe day of *marche* to begin the first day of Januare 1600 3eir^{is}.

Be witnese denyand the wreit. Cap. 3.

Gif all the witnese inserte, deponis that they know na 5 thing anent the wreit, and that they war nocht requyred as witnese therto The wreit or evident is declaired to be fals, and in that cause *the* samin hes na strenth nor effect of probatioun, and the usare thereof is punisched capitallie, and sumtymes the wreit is decerned to mak 10 na fay^{tht}, In the *quhilk* cause the usare thereof is frie and quyte of all pane and punischment.

Twa witnese insert approves Ca 4.

Gif twa witnese contened and inserte in *the* wreit takin to be Improvin affermes¹ the samin to be trew, 15 Albeit ane greit numer of witnese, Alleges and deponis in the contrare. The lordis decernis the wreit to be trew, and authentik, and to prove sufficientlie. Cum in ore duorum vel trium stet omne verbum, Et plus creditur duobus testibus affirmantibus, quam mille negantibus. 20 vid. Messingeris of armes executaris Improvin of befoir, and is to be fund in executioun of sentence. Tit. 36. c. 18. Statute be the lordis .23. Novembr^{is} 1613. And practizd be *the* saidis lordis of sessioun 27 apryl^{is} 1540.

Fol. 131.

The threttie foure Tytill

25

Off the Indirect maner of Improbatioun. Con-
tenand foure chaptour^{is}

The forme of Indirect maner. Cap. primus.

The second maner of Improbatioun is the indirect maner of Improbatioun be *conjecturis*, presumptionis, 30

¹ "approves" in University Library copy.

probabilities, sic as be comparison of letteris writtin or
subscryved be him, quha wrait or subscryved the wreit
or evident that is takin to be Improvin, Or be *com-*
parison of the seillis with the seill's that is affixt to the
5 wreit, Or be interlyn~~ing~~ or rasure in substanciall poyntis
per modum vidimus or oculare inspectioun Or be alebi
quhen the pairtie proves himself, or the witnese insert
in the wreit or any of theme, or the writtare to have
bene in ane uthir place. at the tyme of the making of
10 the writting, than is expressed in the sam~~in~~, Or be *the*
dait of day moneth or 3eir contened in the wreit, Or be
the subscriptioun of the pairtie, or witnese, gif they haif
subscryved, Or be diverse utheris wayis and cir-
cumstances as occasioun offerris, and *the* iudge sall
15 think relevant and lauchfull. lib. 3. c. 87. c. inter. 6. de
fid. instr. extr. l. comparationes 19. cum. authent. seq.
C. de fid. instr.

The lordis ar onlie iudges [competent] in this
forme. Cap. 2.

20 To this indirect maner of Improbatioun, the lordis of
sessioun ar onlie iudges competent, Sua [that] the
sam~~in~~ on nawayse may be decyded be any inferior
judges.

The direct stayis the indirect maner. Cap. 3.

25 Gif the lordis fyndis the wreit or evident, *ethir* trew
or fals be the direct maner of Improbatioun they use
nocht to proceed or to ressave *the* indirect maner.

The indirect maner of Improbatioun is *ethir*
stayed or proceedis. Cap. 4.

30 And gif uthirwyse they find, the said wreit nocht
sufficietlie improvin be the direct maner, They will

ressave the indirect maner, and *proceid thairintill* unto the fynall end and tryell of the treuth and as they find be the deductioun of the procese, they will decerne the writ to be trew or fals, and consequentlie they will pronounce sentence, absolvitoure or condemnatur in 5 the principall cause Conforme to these reules, actore probante reus condemnatur Actore non probante, reus absolvitur, sive iuste sive iniuste possideat, Reo probante actor condemnatur Reo non probante actor absolvitur. quon. attach. c. 49. l. ult. C. de rei vend. l. 2. C. de 10 probat. l. 4. C de edend. c. 1. [ut]¹ ecclesiast. benefic. c. 3. de caus. propr. extr. Vid. Jac. 6 parl. 23. anno domini 1621 act. 22. Anentis conterfeitting and making of fals writtis and accessoure[is] to the samin to be punished as falset beand persewed therfor: As the said 15 act proportis at lenth. Quhairby it wes statute and ordaned Anentis falsieris produceris and usaris of fals writtis *quhatsumevir* produced iudiciallie befor any judge That *thei* sall nor may nocht pas nor receill fra the samin Bot that *the* *producaris* and usaris thairof 20

Fol. 132. directlie or indirectly beand challanged or Improvin be the consequens as accessoure salbe punished as falsed Conforme to the said act, and uthir lawes of this realme anent committing of thift. vid. Jac. 6 parl. 11. act. 50. anent landed men convict of thift and of *this* uthir act 25 following Off the *quhilk* act Intitulate Anent counterfutting and making of fals writtis The tennour followes ffor eschewing the danger quhairin mony of his maiesties lieges stand, be counterfutting and falseing of evidentis It wes statute and ordaned That quhasaevir makis or 30 uses, a fals writ, or is accessour to *the* making thairof salbe punished with the panes dew unto the *committaris* of falsett / And it sall nocht be lawfull to ony persones Counterfuttare falsefear or accessorie quhatsumevir To declair in iudgement, that he passis fra *the* 35 wreitt querrellit of falsett: bot gif eftir the tryell the

¹ "ult" in both copies.

wreit querrellit be fund fals The passing fra; or
 declaratioun of the pairtie : That he will nocht use the
 samin, sall nawyise frie him frome *the* punischement,
quhilk is dew unto those quho committis falsett. Jac.
 5 6. parl. 23. act. 22. 4 augustii 1621.

The threttie fyft Tytill

Off the Sentence Contenand Twentie twa
 chaptouris.

Twa kyndis of Sentence Cap. *primus*.

10 In the generall significatioun ane sentence is inter-
 loquoutour, or definitive. l. 3. l. cum judex 11. C. de
 sentent. et interloq. [om. judic.]

Interloquoutoure. Cap. 2.

Sentence Interloquoutoure is, *quhilk the* judge pro-
 15 nounces, anent the lybell, or upon any exception allege-
 ance, *ansuer*, or Reply, or any uthir article induring
 the tyme of the dependence of the pley and principall
 cause. And therfoir is called Interloquutoria, Because
 the iudge pronounces *the* samin induring the dependence
 20 of the principall cause, [et] interim loquitur *scilicet*
 pendente lite et causa [principali].

Definitive sentence. Cap. 3.

Sentence definitive is *arbitrium*, vel pronuntiatio
 judicis que finem contraversie Imponit, vel condemna-
 25 tione, vel absolutione *partis* litigantis, *Quhilk* therfoir
 is the thrid and last pairt of ane ordiner procese Because
 it puttis ane finall end unto the samin, conforme to the
 probation led and deduced befoir the iudge. d. l. 3. 1.
 ff. de re judic.

Quhow and quhen ane Sentence, definitive is
gevin. C. 4.

The iudge suld gif his sentence, sittand in iudgement,
eftir the conclusion of the cause, for untill the cause
be concluded na sentence may be pronounced, In respect 5
that the dependens of *the* probation stayis the pronun-
ciation of sentence. Quon. attach. c. 16. c. 66.

Nwmer of the lordis. C. 5.

The lordis of session, suld be aucht ordiner lordis
witht the chancellare, or *witht the* president, at the 10
geving or pronounciation, of any sentence interloquutour,
or definitive. Statute [be the lordis] 13 Junij 1532.
Jac. 5. parl. 5. act 57. Jac. 6. parl. 11. act 42.¹

Fol. 133.

Sumtyme the pairtie is nocht summoned, to heir
the sentence gevin. Cap. 6.

15

Befoir the lordis, it is nocht necesser to summon or
warne the pairtie, to heir the sentence pronounced gif
the procese is lauchfullie deduced and concluded be
ane procuratour as is befoir sayd.

Procese to be advised upoun Setterday. Cap. 7. 20

It wes ordayned, that all procese salbe advised everie
setterday (gif the pairtie desyre the samyn) samony as
may be comprehended that day, at the plesoure of the
lordis, and that the auldest procese be first advised,
and suæ furth ordourlie eftir *the* tyme. Statute be the 25
lordis .27. Maij 1532. Bot na cause suld be advised,
untill the act of the conclusion of *the* cause be extracted,
subscriyved and red as said is. in Tit. of conclusion of
the cause. c. 6. fol. 128.

¹ "44" in University Library copy.

Anent Voitting. Cap. 8.

It wes statute, that all argumentis and disputatiōis beand maid, and the lordis haldand sylence, the Chancellare or president, sall ask and Requyre everie
5 lordis voit as they ar in ordour, be the actis and buikis off counsell, quhais names, the clerk register or his deputtis sall reid and name, And sua ordourlie the chancellare or president sall ask everie lordis voit, and that nane argoun ane uthir in geving of his voit.
10 Statute be the lordis .27. Maij 1532. Jac. 5. p[arl]. 5. act. 56.¹

Reveling of voittis. Cap. 9.

It wes condiscended, and promesed, amangis the lordis, that gif any of there voittis, meittis thame be
15 the reporte of the pairties or uthirwyse or that they heir any thing reveled theiranent. that aucht to have bene keiped secreit, they sall at the nixt, meitting in the tolbuith, reporte the narratioun maid unto theme to all the lordis, to the effect, that the authoure of the
20 said reporte may be tryed fra man to man quhill the first revelare be tryed, of quhat conditionn that evir he be, Quha eftir tryell beand fund culpabill sall incur the pane of ane reprove, and punisment deu to ane perjured persone unwirthie to have enteres to remane in the
25 counselhouse thereftir. Statute be the lordis .22. Junij 1586.

Pronunciation of Interloquoutouris. C. 10.

It wes statute, that in all actionis pledabill befor the lordis quhow sone that ane sentence interloquoutoure is
30 argoned, advised and voitted, that incontinent thereftir the samin be pronounced judicialiter, to the partie at

¹ "16" in University Library copy.

the bar. gif opertunitie may be had at that tyme utherwyse *that* the lordis and scrybis beand present for the tyme, keip *the* samin secret, but revelatioun be worde or signe unto the tyme of the *pronunciatioun* of the samin judicialiter. Statute be *the* lordis .13. Junij 5 1532.

Pronunciatioun of Interloquoutouris be the ordinare lord. Cap. 11.

Fol. 134. The lordis of counsale and sessioun (in presence of *the* king his maiestie King James the sext of all wirthiest 10 memorie, quha restis with God.) They statute and ordayned that in all tyme thereftir nane of there Numer ethir ordiner or extraordiner salhave poware to heir causis ressoned in the uttirhouse, and reporte *the* interloquoutouris in there presence except the ordiner lord 15 quha salbe appoyntted ouklie to sit in the uttirhouse and discharges all utheris except the said ordiner to pas in ony wyise to the said uttirhouse, except athir they be removed in the Innerhouse, or than haif necessitie for there awin causis to repair to the uttirhouse: And 20 the said*'s* lord*'s* declaired, that it salbe ane sufficient exceptioun to be proponed be the advocattis in the uttirhouse in all causis *thairefter* that the lord caller and heirare of *the* samin ressoned in *the* uttirhouse wes nawyis ordiner in that oulk. Statute be *the* lord*'s* 5 25 Martii 1600.

Interloquoutouris in the uttirhouse suld be wreittin in *the* Minute buik. Cap. 12.

Item because ane Cathalog of all interloquoutouris with all avisandum, and all uthir thingis done in the 30 uttirhouse, ar inserte and wreittin in the buik called *the* Minute buik, The ordiner lord sittand in the uttirhouse sall subscriyve the said Minute buik, eftir quhais sub-

scriptioun Na thing salbe eiked, Nor na thing *interlyned*,
Nethir sall any thing be scored furth of the said buik
without it be signed be the said ordineris hand, writtin
on the said page, Sic thingis as ar done in the Inner-
5 house, may be put into the Minute buik eftir the said
ordineris subscriptioun, be the principall clerkis awin
hand (depute be the clerk register) to quhome the
processe belongis. *Statute* be the lordis .10. *Januarii*
1604.

10 The ordiner lord onlie suld cum to the uttir-
house. Cap. 13.

Item it wes statute, that na lord except *the* ordiner
sall cum to the uttirhouse without speciall licence asked
and gevin be the Chancellare, or president, uthirwyse
15 the pane of ilk ordiner lord doand in the contrare, to
tyne ane haill oulkis sederunt, sa oft as he salbe *furd*
to contravene, and to be deleit and scored out of the
sederunt buik for the fywe Immediate dais precedand
And the extraordiner lord to incur the penaltie of ten
20 *pundis* and to be ane exceptioun declinatoure aganist
the lord, *that* is nocht ordiner, and the lordis nocht to
heir interloquoutouris reported, bot be the ordiner lord.
Statute [be *the* lordis] 10 *Januarii* 1604.

Extracting of interloquoutouris. Ca. 14.

25 The lordis of counsell and sessioun discharges the
lord of register, and his deputtis, of all buiking, and
extracting, or delyvering to the pairtie of any inter-
loquoutouris to be *pronounced* thereftir in any action
or cause *quhatsumevir* intended and dependand befor
30 theme, or to be intended quhill the samin cause be first
put till ane poynt *ethir* be litiscontestation maid in the
mater, or be ane decreit *pronounced* therintill, or that
any ane of the pairties pas fra there processe, persuit or

defence therof, eftir that interloquoutoure be advised, and pronounced thereintill In *quhilkis* caises or any ane of theme, the clerk register and his deputtis, sall ouklike buik and extract *the saidis interloquoutouris*. Statute be the lordis .19. *Januarii* 1600.

5

Item als It wes ordayned, that na sentence definitive, Nor interloquoutoure, be extracted be *the* clerk register or his deputtis for the space of fourtie aucht houris eftir the pronouncing therof. Statute [be the lordis] 10 *Januarii* 1604.

10

Decreitis and utheris suld be extracted *withtin* 3eir and day. C. 15.

Fol. 135. The lordis of counsell, haifand considerratioun of diverse and sindrie complayntis oftymes gevin in befor thame be the liegis of this realme, that there is sindrie 15 actis, instrumentis, interloquoutouris, Decreittis and Sentences, alsweill absolvitouris as condemnatouris gevin be the saidis lordis, *quhilkis* ar nocht put in the buikis be the clerkis keiparis therof, and *that* be resson the pairties persewaris or defenderis on na wayse suittis the 20 copies therof, quhill lang eftir the geving of the samin, that they have ado therewitht, and *that* the clerkis ar on nawyse recompaned nor gettis any payment therfoir, And for remeid heiroy in all tymes cuming. It wes statute and Ordayned, That all oure soverane lordis 25 liegis induellaris of this realme and utheris strangeris quhatsumevir, *quhilkis* in ony tymes heireftir, hes any action or cause dependand befor the lordis, *quhilkis* happynnis to be called, and continued be the saidis lordis, and actis instrumentis or interloquoutouris gevin 30 thereupoun, or that salhappin to tak ane end be geving of decreittis, condemnatour or absolvitour in the saidis actionis That Immediatlie eftir *thair* saidis actionis be called and decyded as said is, Cum to the clerk registeris deputtis clerkis of counsell haifarais of there procese, and 35

suit all sic actis instrumentis *interloquutouris* decreittis sentences, and utheris actis *contractis*, and iudiciall actis quhatsumevir, within 3eir and day eftir the geving, continuatioun or *pronunciatioun* thereof, payand the clerk for
5 inserting of thair actis instrumentis *interloquutouris*, decreittis *condemnatouris* or *absolvitouris*, And thereftir as the pairtie hes ado theirwith may haif the autenthik coppies of *the samin* extracted furth of the saidis buikis, authenticlie subscriyved be the clerk register or his
10 deputtis for payment used and wount Certefeing the haill liegis of this realme, and strangeris foirsaidis, there procuratouris and advocattis, that gif they suit nor desyre nocht, the saidis actis instrumentis *interloquutouris*, decreittis, *absolvitouris* or *condemnatouris*, and uthir
15 judiciall actis within the space foirsaid, eftir the continuatioun, geving making or *pronunciatioun* thereof, that na falt spot nor blame salbe Impute to the [said] clerk register, or his deputtis, clerkis of counsell haifaris or keiparis therof, and *that* they sall nocht be haldin to
20 ansueir therefoir, The parties perseware or defender, or any utheris in there names payand therefoir as said is. Statute be the saidis lordis *penultimo februaryi* 1564, and ratified be theme *penultimo aprilis* 1565 and 25 *Octobris* 1577.

25 The tyme of uptaking of peces C. 16.

It wes statute, that all pairties, cum to there ordiner clerk, and to the clerk of the billis, and tak up there awin wreittis, and peces produced in judgement within twa 3eiris eftir the geving of *the* decret, utherwyse the
30 clerkis sall nocht be haldin to ansueir *thairfoir*.

Clausis irretant. Cap. 17.

The lordis declaired, that in all tyme cuming they will gif procese, iudge decyde and gif sentence upoun all
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clausis Irretant, Contened in *contractis*, takkis, infestment, bandis and obligationis preceisly according to the wordis, and ineaning of the samyn clausis Irretant, and eftir the forme and tennouris thereof. *Statute* be the lordis. 27. Novembris 1592. Jac. 6. parl. 15. act 246. [19 5 Decembris Anno Domini 1597.]

Fol. 136.

Anent sentence silver in the uttirhouse. Cap. 18.

The lordis of counsell haifand consideratioun that in tymes bygane na sentence silver hes bene used to be payed, bot for sic decreittis as wer advised and pro- 10
nounced in presence of the haill lordis, and that næ sic sentence silver, hes bene payed for decreittis pronounced in the uttirhouse beand of greit importance, and quherin the pairtie hes bene werray contentious. ffor remeid quherof hes appoyntted, that ane of the Lordis hepdo- 15
madaris, quha wes appoynted for that oulk, sall upoun setterday eftirnone in the Innerhouse tak ane sicht of sic decreittis as ar pronounced that oulk in the uttirhouse, and sall modifie ane certane summe to be payed to the saidis lordis as sentence silver *witht* the expensis of the 20
pairtie according to the saidis lordis discretioun. With power to him to gif gratis to Ministeris, and to sik as he knawes to be puir, and unhabill to pay. *Statute* [be the lordis] 28 Novembris 1592. Jac. 6. parl. 11. act. 43. Jac. 6. parl. 12. act. 142. 25

Anent theme that ar nocht temerarious
pleyderis. Cap. 19.

The lordis of counsell for the 3eall of iustice and repressing of malicious, obstinate and contentious pley- 30
daris, hes thoct guid to put the auld Act's of parliament to executioun be establisching and lifting of the unlaw of fourtie schillingis fra the persones that salhappin to tyne there pleyis, and forsamekill as the meaning of *the*

said act of parliament, appeiris *nocht* [onlie] generallie to be extended to all pleyis and actionis, bot that *the* unlau is layd, upon the persone that tynis the pley and in effect is na uthir thing bot *pena temere litigantium*
 5 quhere the temerarie or malice of the pairtie appeiris *Quhilk* temerarie or malice, aucht *nocht* to be presumed quhere the partie persewer, for his awin securitie necessarlie requyris ane sentence, aganist the quhilk na partie compeiris to oppone, and speciallie
 10 quhere the heretoure, or uthir lauchfull possessoure desyris the tennent to remove, that he may entir, quhere *thair* is na malice in the persewer, *Nethir* zit in the defender gif he compeir *nocht* to object, seing his defence is *nocht* relevant to stay the decreit howbeit he
 15 wald¹ *that* he had obeyed the warning and removed, In complayntis of dowbill horning, or poynding upoun werray necessitie, the *complinare* to eschew the danger of dowbill payment, Quhere the compliner salbe fundin and declared, to have used na fraude, nor fals narrative,
 20 to the preiudice of any pairties defenderis, Quhere *letteres* ar desyred conforme to the decreit and rolment of inferiour iudges, and compeiris *nocht*. Quhere the pairtie contractare or his air Ar *summoned* to heir the contract registrate and compeiris *nocht*. Quhere the
 25 pairtie persewer thinkis it necessare to have ane declaratioun of redemptioun of landis, and speciallie aganist ane Minore Na pairtie compeirand, bot the mater ended in the first dyett. Quhere the lordis decreit is desyred to be interponed for authorishing of ane Minour, in aliena-
 30 tioun of his landis, quhilk proceded upon the will of baith the pairties. Quhere *letteres* ar desyred to charge any pairtie to exhibit, and delyver any evidentis *quhair* the defender compeiris *nocht*, the mater is ended in the first terme, and generallie in all uthir causis, *quhilkis*
 35 ressavies ane fynall determinatioun *the* first day na partie compeirand to mak Impediment. Quhere ane pairtie Fol. 137.

¹ "wald afferme" in Grant MS., Advocates' Library.

defender upoun [the] productioun of the copie, or act gettis protestatioun he or his procuratouris sall pay fourtie schillingis, And salhave the samin with the expenssis payed agane befor he be haldin to answeir to his pairtie As alsua quhere any pairtie obtenis decreit in 5 causis of suspensioun ffyndand the *letteres* ordourlie proceded, and to be put to forther executioun, he payand fourtie schillingis, his adverser sall *nocht* be hard upoun ane new suspensioun, quhill the said expenssis with the said unlaw be payed agane, and quhere causis 10 of advocatioun ar anis remitted and the unlaw payed be the defender. The persewer of the advocatioun sall *nocht* be hard of new quhill he haif payed the expenssis *witht the* said unlaw. Statute be the lordis .12. Novembris 1582. Jac. 4. parl. 3. act 30. et act. 35. 15

Penaltie of him that tynis the cause.

Cap. 20.

It wes statute that in all actionis befor *the* lordis of Counsell, the pairtie quha is fundin in the wrang and aganist quhome the sentence is gevin, sall pay ane unlaw 20 of fourtie schillingis to the lordis, and expenssis of the pairtie, quha wynnys the cause, be the modificatioun of the lordis. Jac. 3. parl. 6. act. 49. *Quhilk* expenssis salbe takin up at *the* decisioun of the decreittis condemnatoure or absolvitoure, and beand taxt salbe summed 25 and insert in Ilk decreit. Provyding that all expenssis used in tyme bygane to be gevin in any articill of the proces be payed, as they war wount to be payed of befor. Mar. Regi. parl. 7. act. 64.

Expenssis of pley *withtin* burgh and *outwitht* 30
the samyn. C. 21.

It wes statute, that *quhair the* lordis heireftir sall fynd malice or timeritie in pleading, They will taxt *the*

expensis regoruslie, as *the* cause requyres according to *the* qualitie of *the* pairties and tak up *the* unlaw of fourtie schillingis, or ane grettare summe in everie cause. Statute be *the* lordis. 4 Junij 1586.

5 Actis of parliament anent the foirsaidis
expensis. Cap. 22.

It wes Statute, That the pairtie aganist quhom decreit is gevin anent liquidate summes befor *the* lordis of sessionoun sall pay to thame Twelf pennyis of everie pund,
10 effeirand to that *quhilk* wes recovered befor theme and in all decreittis consistand in facto he quha tynis the pley, sall content and pay to *the* saidis lordis *the* summe of fywe pundis money, and also *the* expensis of *the* partie obtenare of the decreit at *the* modificatioun of *the*
15 judge And ordaynis the samin forme and ordour to be observed heirintill as hes bene keiped befor be *the* saidis lordis in uptaking of fourtie schillingis of ilk decreit Jac. 6. parl. 11. act. 43.

Item the defender nocht compeirand in propir person
20 or be his procuratour, sall pay coistis and skaithis of the pairtie compeirand, and ane unlaw of fourtie schillingis to the iudge. Jac. 4. parl. 3. act. 30.

Lykewyse the persewer quha compeiris *nocht* to follow his pairtie sall pay the expenssis of the pairtie and
25 ane unlaw of xls. to the lordis alsweill in summonis of erreure, as in uthir summonis, or he be hard in judgement to follow his pairtie thereftir and to abyde the decreit to Fol. 138.
be gevin theirupoun. Jac. 4. parl. 3. act. 35 et Jac. 6. parl. 12. act. 142. Quhairby dammaige and interesse
30 suld be modyfied, and the expenssis of pley admitted and liquidat,

Item forther It wes statute, That *the* pairty aganist quhome the decreit is gevin within burgh sall pay to the supporte of the puir Twelf pennyis of everie pund
35 effeirand to that beis obtened befor *the* judge, and

alsua the expensis of *the* pairtie obtenare of the decret, at *the* modificatioun of the iudge. And gif the pairtie or his procuratour within burgh propones any defense or exceptioun, *quhilk* hes bene of befoir proponed, to the delay of the pairtie, The produceare thereof or his 5 procuratour sall [pay] the sowme or pane of Twentie schillingis sa oft as failze beis maid to be Employed to *the* help of the pair. Jac. 6. parl. 6. act. 91. etc.

The threttie Sext Tytill

Off executioun of Sentences Contenand sevintene 10
Captouris

Twa kyndis of execution of sentence C. *primus*.

All Sentences and decreittis, suld have reddie execution *quhilkis* ethir reall or personall, aganist theme onlie contrare quhome *the* decret is gevin / Nam 15 *sententia non preiudicat aliis contra quos non est lata*. l. 4. § si non ex conuentione ff. de re iudic. l. de unoquoque 47. ff. eod. tit. l. 2. C. de execut. rei. iudic.

Personall execution. Cap. 2.

Personall execution is be charging the person 20 contrare quhome decret is gevin, to satisfie and obey the samin: uthirwyise to denunce him rebell and put him to the horne, and to escheit his movabill guidis and inbring thame to the kingis use.

Reall execution. Cap. 3.

Reall executioun is aganist theme contrare quhome the decret is gevin, ethir be poynding of there movabill guidis, Or be comprysing of there landis, or uthir Immovabill guidis. l. a divo pio. 15 ff. de re iudic. quon. attach. c. 49. 8. Jac. 3. parl. 5. act. 36. 30

To know, *quhilk* of the executionis suld be
used. Cap. 4.

To the effect it may be knawin quhen personell Fol. 139.
executioun of ane decreit or reall executioun suld be
5 used, It is to wit that all decreittis and execution
thereof consistis in [*faciendo*] vel dando.

Decreittis consistand in *faciendo* receavis per-
sonall execution. C. 5.

In *faciendo*, as [*in*] decreittis, contening delyvering
10 of evidentis, Randerig of housis, or to infest ane in
landis or annuelrentis etc. In executioun of *the*
quhilkis decreittis personall execution is *commounlie*
granted and used, as horning or warding of the *dettouris*
person: ffor quhen any is decerned and ordayned to do
15 any deid, and dois it nocht he may be charged, and
denounced rebell gif he dissobeyis and his person or
body may be put in waird.

Decreittis consistand in dando ressaves baith
personale and reall executioun. Cap. 6.

20 Decreittis consistand in dando, vel debito soluendo,
as quhen ane obtenis ane decreit aganist ane uthir, for
ane certane *summe* of money, victuale or prices thereof,
or uthir dettis or dewities, anent the *quhilkis* decreittis
ar gevin. It is lesum to use baith personall or reall
25 execution. Jac. 6. parl. 8. act. 139. Jac. 6. parl. 18.
act. 10.

Exempill of personall and reall execution.
Cap. 7.

As gif I have obtened ane decreit aganist 30w for
30 ane certane *summe* of silver I may charge 30w [*to*] mak

payment thereof, and gif 3e fail3e I may denunce 3ow
 the kingis rebell and put 3ou to the horne, And also I
 may charge 3ou to entir 3oure person in waird, *Quhilk*
 is personale executioun. Mairover I may poynd 3oure
 movabill guidis, conforme to the quantitie of *the* det 5
 gif the samin may be fund and apprehended; And gif
 I may nocht fynd movabill guidis pertening to 3ou
 sufficient, for payment of the det. I may compryse 3oure
 landis, for the said dett, contened in the decreit. Jac. 3.
 parl. 5. act. 36. Jac. 5. parl. 7. act. 106. vid. Tit. 7. c. 10
 18. *Quhilk* poynding of movabill guidis, and com-
 prysing of landis is executioun reall, super rebus et bonis
 debitoris. And suppose 3e be denounced rebell,
 and 3oure person put in waird, I may poynd 3oure
 movabill guidis, or compryse 3oure landis, and sua the 15
 personall executioun stoppis [nor stayis] *nocht* the reall
 executioun; Albeit the reall executioun of poynding
 or comprysing, *quhilk* is full and compleit payment,
 stoppis and stayis, *the* personall executioun of horning
 and warding. 20

Reall and personall executioun may, be
 baith used. Cap. 8.

It wes statute and ordayned for execution of all
 decreittis, alsweill gevin be the lordis in any tymes
 bygane or to cum, and siclyke of decreittis gevin or to be 25
 gevin be quhatsumevir iudges, quherunto the autoritie of
the lordis hes bene or salhappin to be interponed: That
letteres alsweill of horning as poynding, the ane nocht to
 preiudge *the* uthir salbe direct at the will and plesure
 of the pairtie obtener of the decreit, quether the 30
 samin is obtened upoun liquidate summes, or that the
 executioun thereof uthirwyse consist in facto. Jac. 6.
 parl. 8. act. 139. parl. 18. act. 10. Reid l. 1. et tot. C.
 de execut. rei iudic.

Execution of the lordis decreittis. C. 9.

Item that all sentences and decreittis of the lordis be execute in tyme cuming be the schireff of the schyre or, his deputtis, quhere the pairties duellis aganist quhome Fol. 140.
5 the saidis decreittis ar gevin, Or ellis be heraldis pursewantis, messingeris or maiseris, and that nane tak mair for the executing of thair office, bot eftir *the* forme of the act of parliament, bot gif it be of benevolence of the pairtie under the pane of de-
10 privatioun of there office, and that they refuse nocht to do there office, alsweill to puir as riche under the pane foirsaid. Statute be the lordis .27. Maij 1532. Jac. 5. parl. 5. act. 58. Jac. 4. parl. 3. act. 30. Jac. 4. parl. 6. act. 66.

15 Copie suld be delyvered at the first charge.
Cap. 10.

The lordis ordaned the lyoun herauld, to caus all officeris of armes executouris of all *letteres* in *the* foure formes delyver to the pairtie, quhome they charge, the
20 autentik copie of the *letteres*, the tyme of the geving of *the* first charge, and that befor famous witnese, and indorse *the* samin on the bak of the *letteres*, and subscryve it with his hand and stampe it, and gif any charge beis gevin eftir *the* first executioun, and the
25 autentik copie of the *letteres* nocht delivered the rest of the executionis to have na effect. Statute be *the* lordis. 24 Novembris. 1569. Nota this statute is laitlie reformed be ane ordinance of the saidis lordis. Statute be theme .23. Novembris 1613. Anent *the* directing of
30 *letteres* of horning on singill charges on there awin decreittis, quheron *letteres* of foure formes war directed of befor, *quhilkis* ar now discharged [and abrogat] be *the* said lait statute. Bot this formare ordinance of *the*

saidis lordis will serve gif ony reductionis of hornings upoun foure formes happynnis to occure heireftir as occasioun and neid beis to be *proponed* etc.

Anent Improvin messingeris executand thereftir.

C. 11.

5

And Because sindrie messingeris of armes beand called for Improbatioun of there executionis, and decreittis of Improbatioun beand pronounced aganist theme, zit *nocht*withstanding the samin messingeris continues in the executioun of there offices, as gif the 10 samin decreittis had nevir bene gevin, Because the liegis ar *nocht* certified *thairof* ffor remeid, quherof. The lordis ordaned that *the* clerk of the procese, sall in all tyme *cuning* inserte in all sic decreittis [the]¹ deprivationioun of the officeris Improvin, And that intima- 15 tioun be maid be the clerkis at *the* *pronunciatioun* of the sentence of the deprivationioun of the said officer in the uttirhouse, that the lyoun may direct ane precept of publicatioun thereupoun, to be proclaimed at the mercat croce of the heid burgh of the schyre quhere 20 the messenger duellis, to the effect that thereftir his executioun may be Null and mak na faith, and he punished in his person and guidis for unlauchfull usurpationioun of his said office, and [the lordis] declared that it suld *nocht* be lesum to the lyoun to repone any sic 25 deprieved person without the speciall consent of the lordis [had and] obtened [thairto]. *Statute* be *the* saidis lordis .23. *Novembris* 1613.

Execution of *letteres* of *hornyng* C. 12.

Because oure soverane lordis liegis ar greitlie hindered 30 and frustratt of the executioun of there *letteres* past upoun decreittis obtened be theme, or uthirwyise at

¹ "of" in both copies.

there greit charges and expensis the officeris of armes pretending excuse that they can nocht put nane to the horne, bot sic as they anis apprehend personallie, quherupoun pairties purposis in defraude of there
5 creditouris to absent themeselfis ffor remeid quheirof. The lordis of counsall declaired Statute and ordaned In the king his maiestie King James the sext his awin presence That incaise officeris of armes may nocht apprehend the persones quhome they ar ordaned to
10 charge personallie It salbe sufficient, to charge theme Fol. 141. lauchfullie at there duelling places and anis be oppin proclamatioun at the markett croce of the heid burgh of *the* schyre quhere they duell the space of tyme con-
15 alwyse bygane and outrun eftir [the] proclamatioun foirsaid, And thereftir in caise of there dissobedyence to denunce theme rebellis and put theme to *the* horne, And declaired that *the* said denunciatioun salbe als valeid and sufficient in all respectis as gif they had bene gottin
20 personallie apprehended; And that na officeris of armes refuse or delay to execute horning upoun the charges quhilk himself hes used under the pane of deprivation and his souertie to incur the unlaw contened in the act of parliament maid thereanent. Statute be the
25 lordis .10. Novembris 1592. Jac. 5. parl. 6. act. 74. act. 75. et act. 83. Jac. 6. parl. 11. act. 72. parl. 12. act. 125. et parl. 14. act. 208.

Of horning contrar northlandmen. Ca. 13.

Oure soverane lord and estaittis of parliament Con-
30 siderring how that his maiesties subiectis Inhabiting *the* north pairtis of this realme, ar oftymes drawin in greit Inconvenientis be sindrie charges direct aganist theme sumtymes for finding of lawborrowes, or compeiring befor his maiestie or his counsell upoun ane
35 singill charge of Sex dais, sua that be *the* schortnes of

tyme, and Impossabilitie to theme to satisfie the saidis charges within sex dais In respect of the far distance of the place of there residence fra the burgh of Edinburgh, they ar oftymes put under *the* danger of horning, quhereas gif they had *convenient* tyme grantted unto 5 theme, there wald nocht be [sic] dissobedience, of sa greit numer of his maiesties subiectis ffor remeid quhereof / It wes statute and ordaned that na *letteres* of horning salbe direct aganist any person duelland be north the wattir of die upoun na schortter space nor 10 fyftene dais at any tyme heireftir, and the horning to be used aganist any of the saidis *persones* upoun ane schorter space nor fyftene dais salbe null and of nane awaill. Jac. 6. parl. 16. act. 25. Jac. 6. parl. 21. act. 7. Vid. Jac. 6. parl. 23. act. 20. [4 *augusti*] Anno 15 *domini* 1621. Ordaning Annuelrent to be dew eftir horning Contenand the effect and tennoure eftir following. Intitulate

Act [of parliament] Ordaning Anuelrent to be
dew eftir horning Cap. 14.¹ 20

Oure soverane lord and estaittis of parliament Considderring the greit preiudice *quhilk* diverse of his maiesties liegis sustene be the want of thair money lent and gevin *furth* upoun band or *contract* or uthirwysis iustlie awand unto thame by thair dettouris quha 25 haifand used all executioun *competent* to thame be law aganis thair dettouris by Charging and putting of thame to the horne ar forced eftir mony 3eiris to ressave thair principall summe and penaltie without [ony] satisfacioun of ony annuelrent and *interesse* of thair money 30 in the meantyme. *Quhilk* as it is a preiudice unto the trew creditouris So it is ane occasioun to the dettouris to conteme his maiesties charges and *letteres* of horning quho resolve in end to pay no moir for releif of the

¹ Cap. 17 in University Library Copy.

horning eftir many 3eiris delay than they war obleist
 unto at the begynning / ffor remeid quhairof his
 maiestie with the advise and *consent* of the estaittis of
 parliament Statutis and Ordanis that quhen saevir any
 5 persone is denounced rebell and put to the horne for
 nocht payment of sowmes of money awchtand be him
 by band contract or *uthirwayis* That eftir the said
 denunceatioun the said persone so denounced salbe
 subiect in payment of annuelrent for *the* saidis summes
 10 for *the* quhilk he is put to the horne and that of all
 3eiris and termes frome the dait of *the* said denuncia-
 tioun, unto *the* tyme of the payment of the same / And
 that Nochtwithstanding thair be no pactioun nor *con*-
 ditioun of annuelrent maid betuix the saidis parties
 15 quhilk may bind *the* said pairtie quha is denuncit
 rebell unto *the* payment thairof: And sic persones as
 ar now standing rebellis and at *the* horne, this act sall
 nocht wirk aganis thame (quo ad preterita) bot salhave
 strenth and force aganis thame in tyme cuming frome
 20 the feist of mertymes nixt In this instant 3eir of god
 j^mvjc xxj 3eiris And *thai* sall begyn to be subiect in
 payment of annuelrent at that tyme and 3eirlie and
 termelie thaireftir untill *the* payment of *the* principall
 summe / Item forther be act of parliament Jac. 6. parl.
 25 21. act. 3. 23 octobris 1612. Intitulate act declaring
 that in all tymes heireftir The obiectioun of horning
 for a civile cause of the pairtie athir slane or Mutulate
 salbe na liberatioun of *the* offendare frome the punish-
 ment dew of the law Of *the* quhilk act the tennour
 30 followes etc. [de verbo in verbum.] Oure Soverane lord
 with avise and *consent* of *the* estaittis of parliament
 Statutis That gif ony of the subiectis be Mutulate or
 slane beand at *the* horne onlie for ane civill caus The
 slayare beand *persewit* or sic as ar arte and part of *the*
 35 saidis crymes of slauchter or Mutulation befor *the* iustice
 generall his deputtis or ony *uthir* iudges ordiner Na
 allegiance founded upoun *the* partie slane or Mutulate

beand at the horne for ony civill caus sall *athir* stay
proces or be ane defens to delay *proces* or to procur
 Impunitie to ony of *the* offenderis gyltie of *the* crymes
foirsaidis And *this* act to have effect force and execu-
 tioun for all sic crymes abone specifyt as salbe heireftir 5
committed allanerlie.

Fol. 142.

That *letteres* of *horning* be direct heireftir upon
 ane singill charge of xxi *dais* on sic as duellis
 be *north* die and on xv *dais* aganis sic as
 duellis be south the samyn. Cap. 14. 10

Quhere as there hes bene greit preiudice sustened be
 his hienes liegis in the raising and prosecuting of
 charges upoun decreittis and sentences recovered befor
the lordis of sessioun, Seing the *samin* according to the
 custome formalie observed did consist maist pairt in 15
letteres of *four* formes, *quhilk* maner of executioun
 besyde the unnecesser delay and *lentht* of tyme, and
 expensis bestowed be the pairtie chargare be werray
 trubilsum, hes also now eftir lang experience provin to
 have brocht furth mony uthir abuses, over frequentlie 20
 schawin themeselfis, quhen any sic charges ar *presented*
 to there iust tryell, ethir in the examinatioun of the
 ordourlie forme *thairto* requyred, or of the lauchfulnes
 and treuth of the *samin*, *quhilkis* oftymes war fundin
 nocht to hauld out, And therefore *that* the saidis in- 25
convenientis, may be heireftir removed, and [ane] mair
summare forme of *procedour* observed in tyme to
 cum, *quhilk* may be mair *convenientlie* done with
 greittare ease to *the* chargare, and les preiudice to the
 pairtie charged. The lordis of counsall and sessioun 30
 hes *determined* and ordaned, that upoun all decreittis
 and sentences gevin be theme, quhereupoun *letteres* of
 foure formes have bene accustumate to be directed.
 That *letteres* of *horning* upoun ane singill¹ charge sal

¹ "simpill" in University Library copy.

[heireftir] be directed upoun fyftene dais aganis [all]
 sic as duellis be south the watter of die, and upon
 twentie ane dais aganist all sic as duellis and have
 residence be north *the* said watter; *quhilk* charge the
 5 saidis lordis ordaned to be gevin to the pairtie charged
 ethir personallie fund (in *quhilk* caise the samin sall be
 sufficient in itself) or gif they can nocht be personallie
 apprehended at *thair* duelling places, and at the
 parroche kirk of *the* parrochin within *the* *quhilk* they
 10 duell *coniunctlie*, *quhilk* charge to be gevin at the said
 parroche kirk, they ordaine to be execute upoun ane
 sonday befor none in tyme of preiching or prayaris
 (quherin it salbe speciallie requisit *that* ane copie of
 the saidis *letteres* be affixt and left upon *the* maist
 15 patent dur of *the* said [parroche] kirk) their beand
 alwyse fyftene dais intervening, according to the
 distinctionis foirsaid's of the pairties [duelling] as said is
 be south or be north *the* said watter of die respective,
 alsweill betuix *the* denunciatioun of the pairtie and the
 20 foirsaid charge to be gevin at his duelling place and
 parroche kirk, *quhilk* is appoyntted, and salbe respected
coniunctlie as ane *coniunct* charge as betuix the charge
 to be gevin to the partie *personallie* apprehended and
 the denunciatioun following thereupoun / And to the
 25 intent [that] the subiectis may be mair certane of the
 abonewrittin ordinance, and that nane *pretend* ignorance
 of the samin, The saidis lordis Ordaned all scribis and
 writtaris to the signet, quha salheireftir writ any letteris
 or *summonis* *quhilkis* formalie contened any clause or
 30 certificatioun generallie proorting that *letteres* and
 charges wald be direct aganist the partie *summoned*,
 to inserte in the place of the said generall clause, and
 to expres speciallie the forme of the saidis *letteres* and
 charges of horning According to the maner set down
 35 and prescryved be the [said] ordinance abonewrittin in
 all poyntis. *Statute* be *the* saidis lordis .23. Novembris
 1613.

The tyme of executing of decreittis. C. 15.

Fol. 143. The tyme of the executioun of decreittis is diverse
 Because sum dais ar appoyntted and aggried betuix [the]
 parties, and specialle expremed within the obligatioun,
 contract or uthir wreit, quhereupoun the decreit pro- 5
 cedis, sic as sex dais, ten dais or ma or feware, and sua
 ex *conventionem et pacto partium* the executioun of *the*
 decreit may follow, uthir dayis may be grantted without
 the consent of *the parties* be speciall privileg grantted
 be the law, or be the lordis as the king or quenis 10
 decreittis, and of *Ministeris preicheris* of goddis worde,
 puir folkis, wedois and strangeris, *quhilkis* decreittis
 may be execute upon ane single charge of Ten dayis, or
 upoun northland men benorth die upoun the dais
 foirsaidis, Or last of all, *letteres* of foure formes, of foure 15
 sindrie and diverse chargis ordinerlie used aganist the
 pairtie, contrare quhome the decreit is gevin, and
 execute aganist him foure sindrie tymes upoun the
 warning of twentie foure *houris* or of fourtie aucht
 houris, or thrie dayis. Off the *quhilkis* charges, the first 20
 wes used to be execute under all hieast pane and
 charge etc. The secund under *the* pane of warding
 of the pairties person etc. The thrid Or ellis to entir
 his person in waird within sum certan castell or waird
 designed be the *letteres* etc. The fourtt charge, Gif he 25
 entir nocht To denunce him rebell and put him to
 oure soverane lordis horne, and escheit and inbring all
 his movabill gudis to his maiesties use for his con-
 temptioun etc. And gif he dissobeyis all the charges,
 and is lauchfullie denounced and registrate at the horne, 30
conform to the statutis and actis of parliament Jac. 6.
 parl. 16.¹ act. 13. Than *letteres* of caption ar direct, to
 tak and apprehend the said rebell and put him in waird
 and suir firmançe [be ressoun of his dissobedience and

¹ "6" in University Library copy.

contumacie] to remane thairin upon his awin expenssis
ay and quhill he have obeyed the *command* and charge
of the foirsaidis *letteres*, and obtene himself ordourlie
relaxt. Thir *letteres* of foure formes [and] charges and
5 [the] executing *thairof* ar abrogate and discharged in
tyme cuming be *the* formare statute abonewrittin .23.
novembris 1613. Jac. 6. parl. 21. act. 7.

142.

Anent registration of *letteres* of horning. C. 16.

The lordis of counsall and sessioun statute and
10 ordaned, quhensaevir any *letteres* of horning ar presented
to the clerk of registeris deput, or schireff clerkis of
bailliearies, stewartries, or regalities to be registrate in
there buikis, That they deliver nocht *the* samin furth of
thair handis, agane unregistratt, or unmerked Albeit the
15 pairties wald consent and aggie amangis *thaimselfis*
theranent, And incaise they do in the contrare. It
salbe ane lauchfull cause of there deprivation: And
ordaned publicatioun to be maid heirupoun. Statute be
the saidis lordis 9 Januarij 1613.

20 Anent registration of Reversionis seasingis and
uthiris wreittis first called the secreteris
registere Cap. 17.

Item the lordis of secret counsall in secreter. Elphin-
tonis tyme The 3eir of god ane thowsand sex hundreth 1600.
25 3eiris, Caused mak the first act and ordinance, Anent
registratioun of reversionis seasingis and uthiris wreittis
etc. And wes than called *the* secreteris register etc. fol. 265.
Quhilk act wes ratiffied and approvin be his maiestie fol. 334.
Jac. 6. parl. 16. the fyftene of November The 3eir of
30 god ane thowsand and sex hundreth 3eiris As the omittit 15 Novem-
actis of that parliament nocht Imprinted in the left furth
actis nocht prentted, at *the* figoure 34. proportis. These Fol. 144.
actis wes abrogated and abolissed, be his maiestie. Jac.

24. Junj. 1609. 6. parl. 20. The twentie *four* day of Junij The 3eir ot god j^m sex hundreth and nyne 3eir^{is}. As the tabill of the omitted actis of *the* said twenty parliament, at the .37. figoure beiris. Thereftir the act Anent registra-
 tioun foirsaid Is of new maid & acted In favouris of the 5 clerk register and his deputtis be his maiestie Jac. 6.
28. Junij. 1617. parl. 22. act. 16. the twenty aucht day of Junij The 3eir of god ane thowsand sex hundreth and sevintene 3eir^{is}. Sua that betuix *the* abolissing foirsaid, and the said new act ar the space of nyne 3eir^{is} or therby That there 10 wes na sic registration used. viz. betuix the .24. Juni 1609. and the .28 Junij 1617 3eir^{is} foirsaid. And forther be the said last act. In the optioun of the pairtie the saidis wreittis & evidentis, ar ordaned to be registrate in *the* buik^{is} of counsell and sessioun 15 At Edinburgh etc. As *the* said last act at mair lenth proportis. To be considered as 3e have occasion heireftir.

The threttie sevint Tytill

Off poynding and Comprysing of movabill 20 guidis. Contenand Nyne Captouris.

The forme of *letteres* of poynding. Ca. 1.

Poynding and comprysing of movabill guidis is ane principall and first forme of executioun of decreitis, for quhen ane decreit is obtened aganist any person for 25 liquidate summes of money The lordis directis *letteres* of poynding To messingeris of armes *shireffis* in that *parte* etc Charging theme to pas arreist appryse compell poynd and distren3e, The reddiest cornis, cattell, dettis, summes of money guidis and geir quhatsumevir per- 30 tening to him aganist quhome the decreit is pronounced, and mak penny *thairof* and fail3eand of his movabill guidis to appryse his landis and heretaige Conforme

to the act of parliament to the awaill and quantitie of the det or summe contened in *the* decreit, and to mak the obtenare thereof to be compleitlie payed of the samin etc.

5 The movabill guidis of the dettoure ar first serched and discussed. Cap. 2.

Conforme to the command of the *quhilkis letteres the* messenger executour passis personallie takand witnese with him to the duelling house, and all and sindrie *the*
10 landis pertening to the dettoure, and there serches and seikis all his movabill guidis and geir, to the effect that he may poynd and appryse the samin for payment and satisfioun of the said dett, *contened in the* decreit, and for his awin schiref fie.

15 And thei suld poynd secundum ratum debiti. Fol. 145. Cap. 3.

Because generallie in execution of decreittis the movabill guidis pertening to the dettoure aganist quhome the decreit is gevin suld be first serchit socht and discussed,
20 and gif the samin is nocht fund equivalent for payment of the dett, samekill as is fund, suld be poynded pro tanto vel rata debiti, and the dettouris landis, may be comprysed for the rest of the dett. Jac. 3. parl. 5. act 36. quon. attach. c. 49. l. a divo pio. 15. l. de debit-
25 oribus. 31. ff. de re. iudic. l. etiam. l. eos quos. 9. C. de execut. rei iudic.

Movabill guidis may be comprysed. C. 4.

The movabill guidis, *quhilkis* ar fund suld be comprysed upoun the grund, quhere they ar apprehended,
30 be honest, leill and trew men, to ane certane price, and thereftir at the *markett* croce of the heid burgh princi-

pall of *the* schyre and *shire*dome within the *quhilk* *the* saidis poynded gudis ar apprehended, and suld be comprysd thereat for *the* secund and thrid tymes.

The awner of the gudis may stay poynding
Cap. 5.

5

In tyme of poynding of movabill gudis the officer executoure of the *letteres* suld speir and inquirye oppynlie gif any person will allege and sweir, that *the* *samin* gudis pertenis to him, and gif any man compeiris in the meanetyme and makis faith or offerris to mak faith that *the* guidis poynded or any pairt thereof pertenis to him as his awin propir guidis and geir The officer suld stay the poynding thereof, and proceid na forther in it upoun the guidis acclamed, bot suld deliver the *samin* to him, quha makis faith as said is, quhilk gif he dois nocht, he and all intromettouris with the saidis guidis acclamed may be called for spoliati~~on~~ thereof.

Nomina Debitorum. Cap. 6.

Item quhen any creditour obtenis decreit aganist his dettoure Contenand certane and liquidate *summes* of money, and it happin that any thrid person be awand any *summes* or dett to the said dettour aganist quhome the decreit is obtened: the creditour quha obtened *the* decreit may (gif he plesis) rais *letteres* and arreist *the* said dett in the handis and possessioun of the thrid person: And thereftir may *sum*mond *the* said thrid person and alsua the dettoure aganist quhome the decreit is obtened for his interes, To heir and see the said thrid persone decerned be decreit, to mak *the* *samin* guidis or det furth *cum*mand, and to be delyvered to the said creditoure for payment to him of the *summes* contened in his decreit in all or in pairt, the lyke ordoure may be observed in cornis cattell, or uthir

movabill guidis pertening to *the* said thrid persone liquidatioun thereof beand first maid, and the pairties and all haifand interes called thereto. [etc. vid. Jac. 6 parl. 12. act. 143 etc.]

5 Sum movabill guidis sumtyme may nocht be poynded. C. 7.

Sum movabill guidis, ar previledged, rej publice causa, sic as oxin horse, and uthiris guidis pertening to the pleuch, and that aucht to laboure the ground, *quhilkis*
10 may nocht be poynded nor distrenzeid in tyme of labouring of the samin, Albeit they be nocht actuallie 3okked in the pleuch, wayne, carte or harrowes, gif there be any uthir guidis Immovabill and landis, or movabill sic as cornis, ky scheip, utensell or plennessing poyndabill
15 at that tyme upoun the ground pertening to him, quha Fol. 146. is dettoure. Jac. 4. parl. 6. act. 98.

Quhow the tennentis guidis may be poynded for the lordis dett. Cap. 8.

Lykewyis quhen any decreit Contenand liquidatt
20 summes of money is obtened aganist any man (beand lord of landis) with *letteres* of poynding conforme thereto, the guidis and cattell of the puir mailleris tennentis and inhabitantis of the saidis lordis landis sall nocht be poynded nor distrenzed for the said lordis dett, *con-*
25 tened in the said decreit forther than ane termes maill extendis to allanerlie *quhilk* suld be allowed to the tennent. Jac. 3. parl. 5. act. 36.

Expensis of schireffis for poynding
C. 9.

30 It wes statute, that baith ordiner schireffis and schireffis in that pairt, quha sall execute decreittis be

distrenzeing of persones for *summes* recovered aganist, theme, sall haif twelf pennyis for ilk pund for *the* executioun of there office, to be takin of the person or *personis* aganist quhome the *summes* or decreittis¹ ar recovered. Jac. 4. parli. 6. act. 66.

5

The threttie aucht Tytill

Off comprysing of Immovabill guidis Contendand .ii. Captouris

The dettouris Immovabill gudis may be comprysed. Cap. *primus*

10

Ane uthir forme of reall executioun of decreittis is comprysing, quhen the officer eftir diligent sercheing and seiking of the movabill guidis pertening to *the* dettoure fyndis nane or findis *nocht* samekill as will satisfie *the* dett awand to the creditour, In that caise 15 the creditour in quhais favour the decreit is gevin, Be *the* formare *letteres* of poynding quhereby the movabill guidis ar discussed of befoir, may cause the officeris of armes *shireffis* in that pairt executouris thereof Denunce all and sindrie the landis myllis, heretaiges, 20 tenementis *annuelrentis* takkis and reversionis pertening to the dettour, *quhair*evir the samin *lyis* *withtin* this realme, be speciall and particulare bounding and designation or any pairt thereof equivalent to *the* *summe* to be comprysed befoir the messenger executour or his 25 colligis *shireffis* in that pairt specified in the saidis *letteres*, at ane certane day to be appoyntted be theme in the houre of cause ethir upoun the ground of the [saidis] landis, or within the tolbuith of the heid burgh of the schyre quhere the denounced landis *lyis*. Or gif 30 they *ly* in severall *shirefdomes*, Or uthirwyis for feir of convocation, feid, or sic uthir ressonabill causis moving the lordis of counsall and session to sit quhere they

¹ "dettis" in University Library copy.

pleis to appoynt be the suit of pairtie, and be there dispensatioun therewith, as alsua gif neid beis with[in] the feriete and cloise tyme of harvist and vacance, and for summoning of ane inqueist or assyis to compryse as Fol. 147.
 5 said is, eftir the formes and tennouris of the actis of parliament thereanentis in all poyntis. Jac. 3. parl. 5. act. 36. *

The place of comprysing. C. 2.

Gif the landis denounced to be comprysed, lysis nocht
 10 within the Royaltie, bot within the regaltie, pertening to any subiect seculare or ecclesiasticall, the landis suld nocht be denounced, at the principall burgh of the shiref-
 dome or shirefdomes, quhere the landis lysis, bot it is necesser that eftir the denunciatioun is maid upoun the
 15 ground of the landis, that the samin landis sall thereftir be denounced to be comprysed at the principall and heid toun of the regaltie within the quhilk the landis lysis, and at the market croce [thairof] gif any be.

The tyme of comprysing and warning of pairties. Cap. 3.

The denunciatioun of comprysing suld be upoun the space of fyftene dais frie betuix the denunciation and comprysing, and the pairtie suld be lauchfullie summoned to that effect, and all pairties haifand or pretendand to
 25 have interes suld be warned personallie or at there duelling places, ground of the landis denounced, and als at the saidis markett croces, and copies suld be delyvered affixed and left thereupoun.

Comprysing be dispensation. C. 4.

30 Gif the landis lysis within sindrie schirefdomes or regalities, Or gif they ly within any ane of theme discon-

tigue, The lordis for that cause, Or for uthir causes moving theme as said is will dispence anent the place *quhair* the courte of comprysing suld be haldin, and ordane *the* samin comprysing to be led and deduced in ane uthir place *withtin* or without the schirefdome, or 5 regalitie *quhair* the landis lyis as within the burgh of Edinburgh quhere *the* counsell and advise of vyse men of judgement may be had anent all difficulties, that may aryse, the tyme of *the* procese of comprysing

The courte is fensed. Cap. 5.

10

The day of comprysing beand cum, the officer beand iudge fensis ane courte in the place appoyntted and designed in the denunciatioun, creattis memberis of courte, Callis the pairties, and gif the defender beand lauchfullie summoned compeiris nocht, or compeiris and 15 schawes na¹ lauchfull defence to stay comprysing Ane assyse of unsuspect persones, to the Numer of fyftene Or threttene at the least ar ressaved sworne and admitted beand summoned befor the fensing of the courte or at *the* bar. Jac. 4. parl. 6. act. 94.

20

Officeris fies for comprysing landis. C. 6.

In comprysingis, the persones of inqueist may lauchfullie compryse, the propirtie and heretabill rycht of *the* landis for payment and satisfacioun of the principall det contened in the decreit, as alsua for payment [of] 25 *the* officeris fie, beand iudge in the procese of comprysing quha be the act of parliament suld have payed to him be *the* dettoure fra quhome the summes and dettis ar recovered twelf pennys for Ilk twentie schillingis of the det for execution of his office. Jac. 4. parl. 6. 30 act. 66. The *quhilk* officeris fie commounlie is sauld

¹ "ane" in University Library copy.

and disponed be him to *the* pairtie persewer of the comprysing, and is conjoined and rakned *witht the* principall summe of the dett, and sua respect is had of that hail summe be the assyse in *the* deduction of *the* procese of
5 comprysing and *the* landis ar comprysed for satisfactioun of *the* hail summe compted and rakned togidder.

The offir of *the* landis comprysed. C. 7.

Fol. 148.

The comprysing beand decerned be *the* assyse, The officer suld offer all and hail the landis comprysed to
10 the pairtie fra quhome they ar comprysed gif they be present and incaise of there absence, the officer suld cause *thaim* be offerred be oppin *proclamatioun* in judgement, and at the window of the tolbuith within the *quhilk* the procese is deduced to him or any utheris
15 in his name quha will by the samin, payand the summes of money for the *quhilk* they ar comprysed, to him at quhais instance they ar comprysed.

The comprysed landis ar assigned to the pairtie or any utheris byaris. Ca. 8.

20 And gif he fra quhome the landis ar comprysed, nor nane in his name compeiris to by the landis for the summes foirsaid: The officer be virtew of his office and act of parliament (Jac. 3. parl. 5. act. 36) may sell assigne and dispone the saidis landis to him at quhais
25 instance they ar comprysed, or any uthiris the perseware plesis, satisfearis and payaris to him of the foirsaid summes, and ordane theme and there airis to be infest in the samin be *the* Immediate superiour, In the samin maner and forme of halding, as they war
30 haldin befor *the* comprysing be him fra quhome they ar comprysed.

The processe [of] comprysing produced befor
the lordis of session. Ca. 9.

The processe of comprysing is inrolled, and put in
forme be the clerk thereof subscryved be him and
seilled with the seillis of the maist pairt of the persones 5
quha past upoun the inqueist, and the samin processe
is offered and presentted to the lordis of the sessioun,
And beand sene and considderred be theme, and fundin
ordourly proceded, There lordschipis Ordanis *letteres*
to be direct To command and charge the Immediate 10
superiour of the landis comprysed to infest and sease
him at quhais instance they ar comprysed or the uthiris
byaris *thairof* and *payaris* of the *summes foirsaidis* as
they ar sauld assigned and disponed To be haldin of
the said superiour, siclyke and als frelie as he fra 15
quhome they ar comprysed did hald the samyn befor
the comprysing Eftir the forme and tennour of the com-
prysing, and act of parliament maid anent *comprysing*
of landis and utheris for dettis in all poyntis. Jac. 3.
parl. 5. act. 36. 20

[ANNOTATIO]

MEMORANDUM it is to be remembred that gif the
landis comprysed war haldin frie burgaige, The lordis
of sessioun of auld used to ordane *letteres* to be direct
be there ordinance and delyverance wreittin on the 25
bak of *the* comprysing Charging the provest and baillies
of *the* burgh *quhair* the landis comprysed lyis To gif
seasing to the creditour apprysare or uthir byare of the
comprysed landis *withtin* the burght haldin frie burgaige
within ane schorte space eftir the charge under all heast 30
pane etc. According to the first forme of *letteres* of the
foure formes, And the keipare of *the* signet ressaved

and keiped for his warrand all the saidis proceses of
 comprysingis quhatsumevir alsweill to burght as land
 and lordis ordinance and delyverance writtin &
 indorsate on the bakis thereof, And thereftir the rest
 5 of the uthir thrie charges of foure formes followed all
 in [ane] hettir and war direct be the saidis lordis
 deliverance, writtin and indorsate upoun *the* bak of *the*
parties supplicatioun upoun *the* productioun and schaw-
 ing of *the* first forme and charge gevin to *the* saidis
 10 provest and baillies under all hieast pane etc. dewilie Fol. 149.
 execute and indorsate Because the lordis had sene
 quhere they had dissobeyed the samin, (*quhilk* is now
 nocht in use) bot on ane singill charge of hornung upoun
 letteres be ane bill for *the* signettis warrand, and the
 15 pairtie keipes the principall procese of comprysing with
 the lordis ordinance and delyverance [indorsate] on the
 bak of the samin, and the keipare of *the* signet hes
 nocht *the* principall procese of comprysing foirsaid bot
 ane bill onlie subscriyved be *the* saidis lordis and there
 20 clerk of delyverance / Nethir 3it passis the saidis proces
 of comprysing of landis within burgh the haille seillis as
 the procesis of uthiris comprysed landis dois Lyand
 withtout burgh haldin of the king his maiestie or any
 uthir Immediate superiouris, *Quhilk* is translated out of
 25 scottis in Latyne and pasis all the seillis and preceptis
 of chancellarie, *quhair*by the superiour is charged, and
 enteris *the* creditouris or byaris of the comprysed landis
 be the proces of comprysing and lordis delyverance
 writtin thereupoun, *quhilk* 3it *the* keipare of the signett
 30 gettis for his warrand, And the proces furtht of the
 chancellarie under the greit seill is the parties charter.
 And this ordour of new forme hes bene used allanerlie
that the keipare hes nocht ressaved [proceses of] com-
 prysingis of landis withtin burght for his warrand sen
 35 *the* 3eir of god Ane thowsand sex hundreth 3eiris or 1600.
 thereby Seing *the* principall warrantis [of procesis of

comprysingis and lordis delyverances writtin and indorsate on the bak thairof] war oft distroyed be the warrand at *the* signet, and uthirwayse war nocht to be fundin in registeris as the utheris that pasis the haill seillis, *quhairof* I have thocht guid be *thir presentis* to mak the reidaris *5* advertised to be considered as they sall have occasioun heirefter etc. vid. Jac. 6. parl. 23. act. 8. 4 augustii 1621. Anent extractis of infestmentis past upoun *com-* prysingis etc. with *provisioun* in *the* end *thairof* etc.

Off redemptioun of comprysed landis. Cap. 10. 10

fol. 88.

It is lesum to the persone fra quhome landis ar comprysed to quyte out and redeme agane *the* samin landis within sevin 3eiris Immediatlie following the tyme of comprysing Payand to the byare of *the* landis, the money for the *quhilk* they war comprysed and sauld *15* to him, and alsua the expensis maid upoun the overlord for charter seasing and infestment. Jac. 3. parl. 5. act. 36. Jac. 5. parl. 7. act. 106. leg. burg. c. 94. et [c.] 95. Stat. Alex. 2. act 24. vid. Tit. 7. of executioun of *sum-* monis c. 18. Anent the charging of appeirand airis *20* etc. Jac. 4. parl. 6. c. 76. Vid. Jac. 6. parl. 23. act. 6. et 26. Anno domini 1621. Anent comprysingis and redemption be Minoris thair successouris and there privilegis *thairanent* etc. Intitulate Anent comprysing act 4. Et act. 7. Intitulat Anentis adiudicationis etc. *25* Vid. act of parliament Intitulat Anent *comprysing* frome apperand airis, Extendit alsweill to mennis awin dettis as thair predicessouris *Quhairof the* tennour followes Oure soverane lord and estaittis of this *present* parliament: Ratiffies approves and *confermes*, the ane *30* hundreth and sext act of *the* sevint parliament of King James *the* fyft of wirthie memorie Intitulate that creditouris may persew him *quha* is chargit to entir and enteris nocht In all [the] heidis articlis and claussis

thairof with *the* additioun and explicatioun following:
 That *the* same salbe extendit unto dettis awchtand be
 ony persone himself alsueill as to these quhiche ar
 addetted be his predicessouris ffor *the* quhilk dett it
 5 salbe als lauchfull for the creditour To charge ony
 persone to entir air to his predicessour and with
 the lyke certificatioun, as gif the predicessoure had bene
 dettoure thairintill *Quhairupoun* comprysing may follow
 in maner specyfyed in *the* said act. Jac. 6. parl. 23.
 10 act. 27. 4 augustii 1621.

Off arreisting of landward men be burgesis
 withtin burgh. Cap. 11.

Fol. 150.

At Edinburgh the aughtene day of December The
 3eir of god ane thowsand sex hundreth and threttene
 15 3eiris, The quhilk day the lordis of counsell and
 session Considderring that be ane lang consuetude
 withtin *the* burgh of Edinburgh and uthir frie burrowes
 regall withtin this Kingdom any frieman duelland within
 the burgh or any uthir person quhatsumevir duelland in
 20 landwarde, challanged be any of the burgesis of the said
 burgh for any caus of det upon directioun of any of the
 baillies of the said toun haifand bene apprehended,
 quhill cautioun war fundin de iudicio sisti, quhilk course
 howsaevir hes bene allowabill in sum respectis, for ane
 25 dew det awand to ane burges him self and contracted
 within burgh, for recovering quhair of it suld be hard to
 him to persew ellis quhair 3it in the forme of proceding
 in arreisting of persones in tymes past, sum erroris
 have bene deprehended, quhilk may produce greit Incon-
 30 venientis, gif [sum] ordour be nocht takin therewith,
 quhereas heirtfoir *the* verball complaynt of burges[sis]
 to the baillies of [sic] a ane to be his dettour, caused
 the lyke verball commissioun to be gevin be the baillies
 to the officer for apprehending of the partie untill

18 Decem-
 bris 1613,

cautioun war fundin, *quhilk* cautioun the officer wes
 accustumate to ressave, Sua that how sa greit saevir, the
 challange war aganist *the* dettour the cautioner upoun
 the officeris naked affirmatioun stuid Ingadged, there
 beand na recorde thereof any quhere ellis, beand *our* 5
 greit truist committed to men of sic credeit the dalie
 practique also nocht admitting the payment of mair nor
 ane hundreth pundis to be *provin* be witnese ffor remed
 of *quhilk* abuse heireftir It wes be the saidis lordis
 statute and ordaned, that at quhat tyme saevir any baillie 10
 within the burgh of Edinburgh or uthir frie brugh regale
 upoun complaint maid to him be any burges of ane det
 dewilie awand to himself desyring his dettour to be
 apprehended *the* said baillie sall first demand the
 quantitie of *the* dett, and fynding *the* samin dois exceid 15
 the summe of ane hundreth *merkis*, sall thereupoun gif
 directioun to his officer to arreist *the* pairtie, be *quhom*
 gif thair be any cautioun offerred, the samin is nocht to be
 ressaved be the officer, bot the cautioner is to *present*
 himself in the toun clerkis chalmer, and be [the] clerk 20
 or his depute in there act buik, the cautioun[er] is to be
 acted de iudicio sisti for the pairtie quha is arreisted,
quhilk becuming cautioneris and sa acting himself moist
 be authorised and testified ethir be his awin hand wreit,
 gif he can wreit, or gif he can nocht wreit be the sub- 25
 scriptioun of ane of the baillies of the [said] burgh and
 be *the* toun clerk for him Nethir sall *the* clerkis acting
 of any man cautioner abone there proportioun without
 the foirsaid appoyntted subscription be any obligatoure,
 And the clerk to tak na forthir price for the said act nor 30
 the summe of twa schillingis scottis, *quhilk* salbe payed
 to him be the pairtie quha charges the *uthir* to find sic
 cautioun; And because in sic arreisting of persones,
 oftymes hes bene fund greit malice that ane burges
 carying ane evill will, aganist any duelland in landwart 35
 resorting to *the* toun, hes challanged him for dett quhere
 [as] he wes nocht awand him any thing to *the* greit dis-

credeit of the pairtie arreisted for the *quhilk* heirtofoir
 there hes bene no punischement. It wes herefoir
 ordaned be the saidis lordis, that *quhairsaevir* any
 baillie is requyred be ane burges to gif directioun for
 5 arreisting of any persone Eftir he hes demanded the
 particulare challange sall *than* Immediatlie cause the
 said burges to act himself, or gif he be nocht ansuera- Fol. 151.
 bill nor responsall of himself sall cause him act ane
 sufficient and responsall cautioner with him self, quha
 10 salbe bund for refounding of all coistis skaith and
 dammaige, the pairtie arrested sall sustene ethir in gudis
 or credeit, gif it salbe fundin *efter* tryell that he had
 nocht iust ground or ressoun to arreist him, As lykwyse
 obleisand the said burges to insist in the persuit aganist
 15 the uthir the nixt courte day eftir the cautioun be fundin.
 Or eftir the pairtie charged sall *enter* in waird With
 certificatioun incaise he failze (*the* pairty gif he happyynis
 to enter In waird) salbe than instantlie put to libertie;
 and gif he hes fund cautioun *the* cautioner salbe declared
 20 and maid frie of his becoming obleist as cautionare,
 And it wes provyded that the toun clerk sall tak for the
 price of sic ane act the summe of twa schillingis scotis
quhilk salbe payed also to him be *the* person quha
 charges *the* uthir to fynd cautioun to him for any dett.
 25 [Item] It wes [also] declaired that this act sall have
 power in all materis abone and exceding the summe of
 ane hundreth *merkis* allanerlie ffor it wes alwyse
 expressed, appoyntted and *provyded* be the lordis that all
 uthir materis beand *withtin* that proportioun, for the
 30 *quhilk* heireftir any pairtie salhappin to be arreisted be
 use of burgh foirsaid, The auld ordour and custome
 formalie observed within burgh, sall stand and be
 sufficient of itself without any alteratioun, and this act
 sall *nocht* dirogatt therto, and ordaned publicatioun to be
 35 maid heirupoun. Statute be *the* saidis lordis .18.
Decembris 1613.

The threttie Nynt. Tytill

Of Suspension of decreittis / contenand twentie
sex¹ chaptouris.

Suspensionis ar conforme to the law. Cap.
primus.

5

Be the law Iudex non potest sententiam definitivam ab eo semel latam reuocare, cum officio functus sit. l. iudex. 55. ff. de re iudic. Nevirtheles the law admittis diverse and sindrie exceptionis contra rem iudicatam be way of reducioun or suspension proponed at his 10 instance, aganist quhome the decret is pronunzed, contra him quha obtened *the* decret. [Albeit the suittare of suspensioun, compeirit at the geving of the decret,] or compeired nocht for sic ressonabill causis as the lordis sall think lauchfull. l. 1. C. de re iudic. l. 2. C. de execut. 15 rei iudic.

The pairties in suspensionis. C. 2.

Be the *quhilk* letteres and summonis of suspensioun, the pairtie obtener of the first principall decret is defender, and is summoned to compeir at ane certane 20 day, to heir and see the executioun of his decret suspended and stayed *simpliciter*, for the ressones contened in *the* summonis, and sua the pairtie, quha wes persewer in the principall cause and first decret is defender in *the* cause of suspensioun, and he quha wes defender in the 25 principall cause, aganist quhome the decret wes gevin is persewer in the cause of suspension.

Fol. 152.

Suspension *cummis* in be ane bill.

Cap. 3.

Næ suspension of decreittis ar grantted, bot be ane 30 speciall bill and supplication of the pairtie suitter thereof

¹ An additional chapter was added, making twenty-seven altogether.

gevin in and presentted to the lordis in wreit and sub-
scryved be theme, at the leist be twa of theme in name
of the lordis and be the clerk [delyverare] of the billis.

The dait of billis of suspension. C. 4.

5 It wes statute, that in all tyme cuming, *the* clerk
register and his deputtis clerk of the billis, nawyise dait
nor ressave daitted any bill of suspension quhen they
ar delyvered be the lordis, Bot that all billis of sus-
pension be daitted, be the day moneth and 3eir of the
10 fynding of cautoun or consignation Statute be the
lordis .24. Maij 1599.

The forme of suspension. Ca. 5.

The lordis of counsell and session considering the
greit dammaige inconvenientis and delay, *quhilkis* his
15 hienes liegis dalie ressavis, throw the purchessing be
moyane of pairties of suspensionis of liquidate summes
contened in decreittis, contrare the saidis lordis ordi-
nances, and aganist [all] equitie and iustice, Therefoir
Ordaned that na suspensioun nor supercederies be
20 grantted of liquidate summis recovered be quhatsum-
evir decreittis gevin in foro contradictorio, without
payment [maid to] *the* parties thereof, and sufficient
discharges schawin thereupoun Or ellis the summis con-
signed in the handis of the ordiner clerk to the billis;
25 and that all decreittis registrate contractis, and obliga-
tionis, quhereupon suspension is craved be extracted and
gevin in with the billis, and gif any suspension is
craved of liquidate summis, and happyynnis to be pur-
chest, The lordis ordaned the clerk of *the* signet
30 wreittare of the *letteres* of suspensioun upon the [billis] to
insert the names of the lordis subscrivaris of the bill
of suspension grantted in any tyme of vacance, at *the*
end of everie summonis, that *the* lordis may understand,

quhat lord passis the saidis billis contrare to this ordinance, and *the* parties dammaige and expensis may be payed be *the* saidis lordis passeris of the saidis billis as equitie craves; and the lordis ordaned all discharges schawin for obteneing of suspensionis to be 5 subscryved be the procuratour of *the* partie purchessare of *the* said suspensioun, and that he hes directioun of his clyent to use the samin as ane trew evident, and ordaned the clerk of the billis to keip and retene the discharge sua used and produced, quhill the calling of 10 *the* suspensioun. Statute be *the* lordis 27 Julij 1599.

ffor tryell of acquittances produced in suspensionis. Cap. 6.

And for tryell of the treuth of acquittances produced in suspensionis. It wes statute be act of parliament 15 that quhensaevir any pairtie groundis there ressonis of suspensionis, or reduction for annulling of horningis upon acquittances befor *the* denunciatioun salbe haldin in *presens* of *the* lordis to mak faith that *the* acquittances and discharges ar trew [maid] and subscryved of the 20 samin dait they ar produced uthirwayse *the* useris thereof nocht to be hard to use *the* samin etc. Stat. Jac. 6. parl. 4.¹ act. 209.

Fol. 153.

Act anent suspensionis and consignation of summis of money, and protestationis to be 25 gevin aganist the samyn hereftir. Cap. 7.

Quhere as na thing dois mair stay and Impeid the executioun of decreittis and sentences (and thereby the ordiner course of iustice in that poynt is hindered and postponed) than the frequent granting of suspensionis, 30 quhilk is oftymes socht upun ressones and causis schaw[in] and appeirances probabill, quhilk nochtthe-

¹ "14" in University Library copy.

les at the discussing of the saidis suspensionis do try
untreu and fals, sua that the chargare be this delay
and protractioun of tyme in the prosecuting of his
iust det overwereed with lang attending is ethir in end
5 (foir want of meanis) forced to leif of his suite (quhow-
saevir sa iust) or accept sic proportioun of satisfacioun
as his adverser will offer, Or gif he resolve to prosecute
the extremitie he fyndeth eftir accompt the hail mater,
or the valeu of his persuit exhausted upon the expensis
10 of his pley, to the greit discouraging of any man to seik
his dew det or richt, and to the enbalding of the evill
disposed upoun hoip of his delayis, and subterfuges
to frustrate and oververie there credito~~ur~~ Inraiging eftir
these sa uniust dependances there [heth] bene heirtsofor
15 small consideratioun had of *the* modefeing of the parties
charges, and Imposing sic forther penaltie as mycht
have affrayed men to have socht sic unlauchfull delayis.
ffor remeid quhereof. The lordis haif statute and
ordaned, that in delyvering and grantting of suspen-
20 sionis to any pairtie at any tyme hereftir cautioun suld
nocht onlie be tane for obedience of the charge, bot
for refounding also to the charger of sic *forther* pro-
portioun of expensis as be the saidis lordis (at *the* dis-
cussin of the said suspensioun) salbe than modyfied,
25 and also for payment to the saidis lordis collecto~~ur~~
of sic penaltie as they sall Impoise upon *the* suspender
for his fraudfull protracting of the pley and frustrating
his adverser of the dew executioun of his decreit and
sentence, quherin the saidis lordis have fullie resolved
30 that gif upoun the discussing of any suspension *thai*
sall discover any pairties malicious intention to protract,
that they will then with all rego~~ur~~ Impoise sa greit ane
penaltie upoun theme, that baith they and all utheris
sallhave iust cause to foirbeir heireftir sik fraudulent
35 unjust delayis. And gif it salbe fundin *that* any pairtie
hes suffered twa protestationis to pas upon copies of
severall purchessed suspensionis In that caise the saidis

lordis ar to modyfie bayth expensis and penaltie at na
 les rate and proportioun, than gif *the* suspensioun war
 decyded be comperance of partie, And herewitht it is
 in lyke sorte, that gif in the discussing of *the* said
 suspensioun it salbe fundin that *the* suspender had 5
 bene unjustlie and maliciouslie charged, *witht*out any
 iust ressonne or ground, that *nocht* onlie the lyke ex-
 tremitie and regour sallbe used in modefeing of expensis
 bot in Impositioun also of penaltie to *the* lordis use
 as *thai* sall think *the* parties malicious persuit in that 10
 caise sall requyre, And quhereas heirtofoir suspensionis
 hes bene frequentlie grantted upon the consignatioun of
 summis of money and utheris for *the* *quhilk* *the* partie
 suspender hes bene charged, quhair as *the* said suspen-
 sioun dois contene na resson quhy the pairtie charged 15
 suld *nocht* be satisfied be reall payment, or offer maid
 to him self *witht*out any sic delay: Therefoir the lordis
 Fol. 154. declairis, that *thai* will grant nane sic suspension, upon
 consignatioun in tyme cuming except it be first verified
 to *the* lordis that reall offer hes bene maid to *the* 20
 pairtie of that *quhilk* salhapin to be consigned, and that
the samin wes refused be him, and na uthirwyise. And
 ordaned thir *presentis* to be inserte in the sederunt
 buik, and publicatioun to be maid that nane *pretend*
 Ignorance of *the* samin. Statute be the lordis .23. 25
 Novembris 1613. Jac. 6. parl. 8. act. 139 in fin. vid.
 Jac. 6. parl. 11 act. 43.

Delyvering of Suspensionis in tyme of Vacance.
 Cap. 8.

At Edinburgh the penult day of Julij The 3^eir of god 30^o
 ane thowsand sex hundreth and twelf 3eiris. The *quhilk*
 day the lordis of counsale and sessioun Ordaned that
 all *summundis* of suspensioun to be wreittin be any
 wreittare to *our* soverane lordis signet eftir the publi-
 catioun of thir *presentis* and intimatioun maid of the 35

samin to the saidis wreittaris, sall contene and specifie the names of the lordis quha sall deliver and subscriye the bill of suspension, to the effect the lordis names delyveraris and subscrivaris of the samin may be
5 notyfyed and knawin to the haill lordis thereftir sittand togider in iudgement, and the samin to be inserte in the conclusioun of the saidis summonis, eftir *the* accustumate clause of cautioun or consignatioun, or æthir of theme, and to the end, the fairsaid ordoure may presentlie
10 tak effect, The saidis lordis for this present vacance [approcheand], appoynted of there ordiner Numer, the particulare senatouris underwritin, to attend upon the deliverrie of *the* said suspensionis, at the particulare tymes eftir specyfyed To wit the lord secretare, and
15 clerk register during the moneth of august, The lord forestarseat and [lord] Reidhouse during the moneth of September. and lord advocate allane during the haill moneth of October nixttocum Statute be the lordis. penultimo Julij 1612.

20 The suspension suld beir speciallie the heidis of the writt nocht fulfilled. Cap. 9.

Item quhen any person or personis suittis suspensioun upoun sic lettiris, berand the heidis in speciall nocht fulfilled, contened in the decret gevin aganist
25 him: the person desyrand suspension, gif it beir summis of money, or evir he be hard, sall offer the money to his creditoure, or than schaw ane instrument berand that the creditoure refused to ressave the samin; and gif *the* letteres contenis uthir deidis, that he schaw
30 the fulfilling thereof, or he be hard to suit suspensioun, and than to consing the samin with cautioun in all thir caises And als the delyverance on the bak of the bill or supplicatioun for suspensioun, suld beir gif that war the first suspensioun granted in the said mater uthir-
35 wyse to be null etc. And forther the saidis lordis

declared, that quhatsumevir personis obtenis suspension upon sic causes as he lybellis, And it be fundin be the lordis, that the principall *letteres* salhave effect and be put to forthir executioun. Nochtwithstanding of the cause contened in the suspensioun, That *the* defender 5 sall pay ane amand arbitrall to the lordis, to be applied as they sall think guid : And siclyke to be observed in advocacionis of actionis fra inferioure iudges to the lordis, quhen the *mater* is remitted be the lordis to the [inferiour] iudge [agane] etc. Statute be *the* lordis .16. 10 aprylis 1580. Jac. 6. parl. 11. act. 43. Jac. 6. parl. 12. act. 142.

Fol. 155. Suspensionis anent liqudate summis of silver.¹
Cap. 10.

Als it wes ordaned that na suspension nor super- 15 cedere, [be] grantted of liqudate summis recovered of quhatsumevir decreittis gevin in foro contradictorio. Without payment be maid to the pairtie, and sufficient discharge schawin thereupoun, Or ellis the summes of silver be consigned in *the* handis of the clerk of the 20 billis, quha is ane of *the* clerk registeris deputtis or substitutis eftir reall offer and refuse of ressait be the pairtie to be verified and schawin as said is. Statute be *the* lordis. 27 Julij. 1599. Jac. 6. parl. 8. act. 139. In fin. act. Intitulat Anent the bettir execu- 25 tioun of decreittis. 1584.

Consigned silver may nocht be arreisted.
Cap. 11.

Item alsua It wes statute that the summes of money consigned at *command* of the lordis in the handis of 30 the clerk register or his [substitute] clerk of the billis for *the* tyme for suspensioun of letteris past upoun

¹ "money" in University Library copy.

there decreit or delyverance salbe delyvered to the pairtie, quhome the lordis fyndis to have rycht thereto / Nochtwithstanding of quhatsumevir arreistment maid or to be maid in tyme cuming thairupoun, Except the
5 saidis lordis gif thair expres command in the contrare. Statute be the saidis lordis 9 Novembris 1590.

Delyvering of consigned money. C. 12.

As alsua it wes statute that in all suspensiounis quhair consignatioun be the ordinance of the lordis is
10 maid that the clerk of the billis sall mak mentioun in the delyverance of the quantitie of the summe consigned, and delyver the consigned summe upon the sicht of the lordis decreit and ressave the parties acquittance. Statute [be the lordis] 14 augustii 1590.

15 Caution suld be fund in suspensiounis Cap. 13.

The persewer of the suspensioun, at the tyme of the raising of the summonis of suspensioun suld fynd sufficient cautioun and souertie for payment of sic pecuniall pane as the lordis sall modyfie in the clerk
20 of the billis buikis to fulfill and obey the principall decreit gevin aganist him, quhair of he seikis suspensioun Incaise the lordis haifand discussed the suspensioun raised be him fynd that the ressonis of the suspensioun ar nocht relevant, bot that the decreit pronounced
25 aganist him, and suspended be him suld have executioun aganist him. Statute be the lordis. 25. Octobris 1577.

Caution in suspensiounis aganist decreittis of removing. Cap. 14.

30 And gif ane decreit of removing frome any Landis possessionis or tenementis is given aganist any man,

and he nocht willing to obey the samin, And sua raisis
summonis of suspensioun to heir and see the executioun
 thereof suspended and stayed, he sall fynd the lyke
 souertie to obey and obteniper the samin, [Incase the
 lordis fyndis, that he suld sua do] Under sic pecuniall 5
 panes as *the* lordis pleasis to modifie according to the
 qualitie and quantitie of the persone and the cause,
 and the clerk of *the* billis quha is *the* clerk registeris
 [substitute], at *the* raising of the *summonis* and *letteres*
 of suspensioun, sall ressave the said cautioneris obliga- 10
 tioun to *the* effect foirsaid at command of *the* saidis
 lordis.

Ressonis of suspensioun suld nocht be
 altered. Cap. [15.]

Fol. 156. It is nocht lesum to the pairtie raiser of the suspen- 15
 sioun eftir the executioun of the *letteres* aganist *the*
 uthir pairtie, to lybell or allege any new ressonis, diverse
 frome theme contened in the *summonis* of suspensioun,
 except the lordis for ressonabill causis moving theme
 grant speciall licence to eik and reforme the ressonis 20
 of suspensioun, as they use to do [to] wedowes, pupillis,
 strangeris puire folk, and Miserabill personis wirthie of
 pitie and compassion.

The cause for the quhilk ressonis of sus-
 pension suld be provin instantlie. C. 16. 25

Because all suspensionis, ar odious and na wyise
 favoureabill, beand inventted and raised to stay and
 stope the executioun of decreittis; and therefor suld
 be restrayned, and nocht amplyfied, for the samin
 cause the ressonis contened in the *summonis* of sus- 30
 pension beand fund relevant and lauchfull be the lordis,
 commounlie suld be verified and provin instantlie, and
 na ordiner terme of probatioun suld be assigned for
 proving thereof.

Suspensionis induris untill it be discussed fynallie. Cap. 17.

All suspensionis ar raised to ane certane day be delyverance of the lordis, to the *quhilk* day the pairtie
 5 suld be summoned to compeir, And albeit the summonis of suspensionis is nocht discussed that day bot remanis and continuis undecyded, the executioun of *the* principall decreit beand anis suspended, is understand to be suspended, ay and quhill the ressonis of sus-
 10 pension be fynallie discussed and decyded be the lordis be ane sentence definitive, or protestatioun admitted be theme in favouris of *the* defender /

The defender compeirand and *the* persewer absent. Cap. 18.

15 Because, gif the pairtie defender in the suspensioun compeiris and the persewer compeiris nocht. It is lesum to the defender, the day of comperance beand bypast to produce in judgement the copie of the summonis be the *quhilk* he wes summoned, and [to]
 20 protest that seing he is reddie to defend in the cause, and the persewer compeiris nocht to persew that na procese suld be grantted aganist him in the cause of suspensioun untill the principall letteris of suspensioun raised be the persewer thereof be iudiciallie produced,
 25 and he be summoned and warned to the production thereof and his expensis payed and refounded to him.

Protestatioun aganist the persewer. Cap. 19.

This protestatioun is commounlie admitted be the lordis, and ane act iudiciallie subscriyved be *the* clerk [of]
 30 register counsell and rollis is extracted be the defender, Contening the samin protestatioun, *quhilk* beand done *the* defender in the suspensioun (quha wes persewer in the principall cause and decreit *quhilk* wes suspended)

may lauchfullie cause put to executioun the first letteris raised be him for execution of the principall decreit obtened at his instance.

Of the persewer present [and] the defender absent. Cap. 20.

5

Gif he quha raises and persewes the first suspensioun compeiris to persew, at the day of comperance to *the quhilk* the defender is summoned, and it happin the defender compeir nocht the samin day: The lordis will suspend *the* letteris, raised upoun the principall decreit, 10
ay and quhill they be produced, and the pairtie warned thereto be resson of *the* contumacie of *the* defender, quha beand lauchfullie summoned compered nocht.

Fol. 157.

Gif the persewer provis nocht He payis ane amand. C. 21.

15

Quhen suspensioun of ane decreit is obtened upon sic ressonis as plesis the pairtie to lybell: And it be fund be the lordis, that the principall decreit suld have forther executioun, Nochtwithstanding of *the* ressonis lybelled, he quha persewis the suspensioun, sall pay ane 20
amand arbitrall to the lordis, to be applyed as they sall think expedient: Because he did wranguslie stay *the* executioun of ane lauchfull decreit, nocht haifand ane iust cause to do the samin. [vid.] Jac. 4. parl. 3. act. 35. Jac. 5. parl. 7. act. 110.¹ Mar. Regi. parl. 7. act. 64. 25
Jac. 6. parl. 8. act. 139. et parl. 11. act. 43. etc. Statute be *the* lordis .23. Novembris 1613.

Anent summoning of the thesawrer or his solister in suspensionis C. 22.

fforsamekill as it wes statute and ordaned *that* all 30
pairties raisand suspensionis with relaxatioun fra the horne sall with the caution, *quhilk* they find for

¹ "10" in University Library copy.

obedience of *the* command of the *letteres* quheirby they
 ar charged, fynd cautoun lykewyse for sic liquidate
 summis for *thair* escheittis as the lordis sall modifie the
 tyme of *the* grantting of the saidis suspensionis and
 5 relaxationis, Incaise they salbe fund lauchfullie
 denounced, and the *letteres* ordourlie proceded,
 Nevirtheles his hienes is greittumlie hindered and
 preiudged, be ressoun the purchesseris of *the* saidis
 suspensionis, and relaxationis, eftir the obteneing
 10 *thairof* on nawyise causis summond his hienes
 thesawrare for his interes, to compeir and defend as of
 dewitie *thei* aucht to do : ffor remeid quhereof. Ordaned
 and commanded, the clerk delyverare of the billis, to
 eik to this clause, quhairupoun the said caution is fund
 15 that the pairtie sall lauchfullie summond his hienes
 thesawrare, and delyver the copie of the letteris to *the*
 thesawrare or his solister for him in his office, and to
the principall pairtie uthirwyise the suspension and
 relaxatioun to be Null / Lykwyise [that] the said
 20 cautioner sall within fourtie dais nixt eftir the raising of
the [said] suspensioun (*the* sessioun sittand sa lang)
 reporte to *the* said thesaurare ethir payment of the
 said summe for *the* quhilk he is cautoun as for the
 escheit, or than to him, or his solister the saidis lordis
 25 Decreit of Nullitie or reduction of the horning, at *the*
 leist *the* saidis lordis declaratour under the clerk
 registeris subscripcioun of the pairties deligence maid
 for obteneing of the said decreit, quhilk nochttheles
 delays for inlaik of sufficient tyme to *the* disputatioun
 30 of the cause : And the said fourtie dais beand expyred
 compleitlie in ane sessioun or pairtlie in the end of ane
 sessioun, and pairtlie in the begynning of *the* nixt, the
 said decreit or declaratour nocht beand produced as
 said is Ordaned *the* said thesaurare to have *letteres* of
 35 horning upon ane singill charge of ten dais allanerlie
 aganist the cautioner for payment of the said liquidate
 summe of escheit, quhilkis *letteres* sall nawyise be

suspended without payment or at *the* leist consignatioun of *the* summe to *the* said lord thesaurare to his maiesties use: Statute be *the* lordis 20 Novembris 1592.

That in billis of suspension craving relaxatioun there be ane speciall summe nominate for the 5
escheit, and cautioun fund therefor. Cap. 23.

Fol. 158. In *presens* of his maiestie King James the sext of all
wirthiest memorie. It wes thocht expedient statute and
ordaned be the lordis of counsall, that nane cravand
suspensioun and relaxatioun fra the horne sall have 10
there billis delivered, quhill the samin billis be
presented to the thesaurare or sum ane or ma of the
lordis of counsell and sessioun quhome he sall think
meit, to commit *the* cair credeit and diligence of this
mater unto, *quhilk* upon evirie bill sall note ane 15
summe, *quhilk* they sall esteme *the* escheit of the person
or personis seikand suspensioun and relaxatioun wirth,
[ther]eftir the bill beand red to the lordis Incaise they
find the ressones relevant, suspensioun salbe granted
upoun guid cautioun to be ressaved be *the* clerk 20
delyverare of the billis That incaise the lordis sall fynd
the saidis *letteres* desyred to be suspended ordourlie
proceded and to be put to forther executioun aganist
the pairtie seikare of *the* said suspension and re-
laxatioun, the souertie fundin salbe decerned detbund 25
to the thesaurare for the summe contened in the act,
and sall have *summare* executioun of horning and
poynding *thairupoun* as he sall pleis seik the samin,
and the clerk deliverare of the billis to delyver ane
memoriall of the suspensionis past, souerties fundin, and 30
panes contened in *the* actis to *the* thesaurare or his
clerk everie oulk anis gif the samin salbe requyred.
Statut be the lordis in his maiesties presens the second
day of februarye The 3eir of god ane thowsand fywe
hundreth foure scoir and twelf 3eiris.

2. febru-
arii 1592.

The lordis discharges to grant Suspensionis.

Cap. 24.

The lordis of counsell and session declairis that
 quhensaevir there salbe ane warrand grantted be theme
 5 in there haill audience to stay the passing of suspen-
 sionis upoun any decreittis, that there sall na suspen-
 sion be grantted in the contrare thereof, Except the
 samin be red past and voitted in presence of *the* haill
 lordis: Dischargand the clerk of the billis of all
 10 passing¹ of any billis of suspensioun, quhere ane dis-
 charge hes bene gevin be the lordis in contrare thereof
 without the samin be dewilie past in there haill *presens*
 as said is. Nochtwithstanding of quhatsumevir com-
 mand ethir be worde or writ, that he sall ressave fra
 15 any of *the* saidis lordis, *quhilkis* he sall refuse to obey
 in any caise. Statute be *the* lordis .16. Novembris 1602.

Anent theme quha offerris to mak theme
 selfis bairman. Ca. 25.

fforsamekill as diverse and sindrie personis [over]
 20 burdened with Multitude of dettis, and ar nocht re-
 sponsall in guidis and geir to satisfie there creditouris,
 And therefor beand charged be executionis of decreittis
 obtened aganist theme, Offerris theme reddie to mak
 cessionem bonorum, and to becum bairman, and sua
 25 be that ressonne seikis and craves suspensioun of the
 letteris raised upoun the saidis decreittis and execute
 aganist theme / Therefor the lordis of counsell and
 session Ordaned the provest baillies and counsell of
 Edinburgh to cause big mak and erect, ane pillare of
 30 hevin stane Neir to *the* markett croce of Edinburgh
 upoun the heid quhereof ane seat and place to be
 maid quhairupon in tyme cuming salbe set all dyvoris,
 and sall sit *thairon* ane markett day fra ten houris in

¹ "ressaving" in University Library copy.

the morning *quhill* ane houre eftir denner, and the saidis dyvoris befor there libertie, and cuming furth of the tolbuith of Edinburgh upoun there awin charges to cause mak and by ane hat or bonet of *zallow* culloure to be worne be theme all the tyme of there sitting on 5 the said pillare and in all tymes thereftir sa lang as they remane and abydis dyvoris with speciall provisioun and ordinance gif at any tyme or place eftir the publicatioun of the said dyvorie at the said *markett* croce any person or personis declared dyvoris beis fundin wanttand the 10 foirsaid hat or bonet of *zallow* cullour, toties It salbe lauchfull to *the* baillies of Edinburgh or any of his creditouris to tak and apprehend the said dyvoure, and put him within the tolbuith of Edinburgh^t therin to remane in suir custodie be the space of ane quarter 15 of ane *zeir* for Ilk fault and failze foirsaid. Statute be *the* lordis .17. Maij 1606.

12 Julij
1620.

Item forther Anentis dyvoris The saidis lordis of counsell and sessioun hes maid ane act [and ordinance] aganist all dyvoris, and all unlauchfull alienationis maid 20 be theme That all sic fraudefull alienationis assignationis or dispositionis quhatsumevir of any there landis gudis or geir [maid be theme or ony of theme] to there confederatis or *coniunct* persones in defraude of their creditouris salbe Null be way of exception or reply but 25 ony forther declaratour As *the* said act and statute [and ordinance at mair lenth beiris.] Daitted at Edinburgh The twelt day of Julij: The *zeir* of god ane thowsand sex hundreth and twentie *zeiris*. [And ordaned be their lordschipis to be publisched in prent. *Quhillk* thomas 30 fyndlasone his maiesties prentare At their *lordships* command hes Imprentted upoun throuches of paper Per actum *dominorum* supremi senatus consilii etc. Lykeas this act wes ratiffied and confermed in all poyntis, and the haill tennoure thereof de verbo in verbum 35 Insert and registrate in the act of parliament maid thairanent.] Jac. 6. parl. 23. act. 18. Anno domini 1621.

Næ inferiour iudge may suspend his awin
decreit. C. 26.

Næ inferiour iudge *withtin this* realme may suspend
the decreit gevin be him self, bot *the* lordis of counsell
5 and session beand supreme iudges in civile causis ex
nobilj officio may suspend there awin decreit, for sic
lauchfull causis [and ressones] as *thai* [sall] think guid
and ressonabill. Lyke as they also may reduce the
samin, etc.

10 Anent discharging of protectionis. C. 27.

Oure soverane lord and estaittis of parliament Under-
standing that *thair* may sindrie *protectionis* be socht by
bankromptis, and *uthiris* quha ar addetted in greit
summes of money *quhairby* [the] executioun dew unto
15 the creditour be *the* lawes of the cuntrie aganis *the*
dettour may be frustratt To *the* greit dammaige of *the*
creditour ffor remeid *quhairof* It wes statute and ordanit.
That heireftir *the* lordis of sessioun sall grant na pro-
tectioun frome ony executioun: dew and competent aganis
20 any man of *the* law / And declairis that gif ony [salbe
heireftir] granttit, the granter of *the* same salbe subiect
and habill¹ of *the* law to *the* creditour for *the* summe
[frome *the* quhilk he hes granttit protectioun Jac. 6.
parl. 23. act. 13. 4. augustii 1621.]²

25 The fourtie. [or last] Tytill

Off Reducioun of Decreittis Contenand fyftene
Chaptouris

Ane inferiour judge may nocht reduce his
awin decreit. Ca. 1

30 Reducioun of decreittis gevin be inferiour iudges is
nocht granted or permitted to theme selfis quha pro-

¹ "lyabill" in University Library copy.

² Margins cut in binding the vol.

nunces the decreit. l. 1. C. senten. rescin. non posse.
l. post. 9. C. de senten. et interl. om. judic. l. quod.
iussit. 14. l. Judex. 15¹ ff. de re iudic.

The lordis ar onlie juges in reduction
of there awin decreittis, and of inferiour 5
juges decreittis. Cap. 2.

And within this realme na [judge] may reduce his awin
decreit, except the lordis of sessioun, quha may nocht
onlie reduce there awin decreit as salbe sayd hereftir,
bot alsa the decreittis of all inferiour judges in civile 10
causis, as alsua the decreittis of *the* commisseris of
Edinburgh *quhilk* salhappin to be gevin be theme in
ecclesiasticall causis, aganist law and resson.

Commisseris of Edinburgh. Cap. 3.

Lyke as the *commisseris* of Edinburgh hes power and 15
iurisdiction to reduce the decreittis wranguslie gevin be
all inferioure *commisseris*.

Reduction recovered, stayis executioun.

Cap. 4.

Fol. 160. Decreittis beand reduced be ane sentence definitive 20
in favouris of the persewer of the reducioun nocht
onlie stayis and stopis the executioun of the decreit
quhilk is reduced, bot alsua cassis and annullis the
samin In sic maner as gif the samin had nevir bene
gevin & pronounced. 25

Dependence of reduction stayis nocht
executioun of decreittis. Cap. 5.

Bot the procese of reducioun of ane decreit stayes
nocht the executioun thereof induring the tyme of the

¹ "55" in University Library copy.

dependence of the procese of reducioun. and therefoir the reducioun of decreittis is nocht sa odious as the suspensioun of decreittis.

Probation in procese of reduction. C. 6.

5 And for this cause ane ordiner forme of procese is used in reductionis, be assignatioun of diverse *termes* for proving of the lybell or exceptioun and using of Incident diligence as is befoir sayd, anent *the* probation of the lybell or exceptioun, quhen ethir of theme is
10 fund relevant and admitted to probatioun: *quhilk* forme of probatioun is nocht used in suspensionis.

Reduction of decreittis of Inferiour
iudges C. 7.

All decreittis wranguslie gevin be any inferiour judge
15 of this realme in civile causes (sic as baillies baronis, *shireffs*, *stewartis*, *provestis* and baillies of burrowis) may be reduced be the lordis of session as supreme iudges in civile causis for sic ressonis and causis as sall pleis the pairtie to lybell Conforme to *the* law, Bot
20 reducioun of retouris, and inordinate *processe* suld be persewed within thrie 3eiris. Jac. 4. parl. 5. act. 57. uthirwyse nocht derogat and reformed to .20. 3eiris. Jac. 6. parl. 22. act. 13. [*ano* 1617] Intitulat anent reducioun of retouris and *summondis* of *errour*: 28
25 June 1617. vid. reducioun of decreittis of redemption. Jac. 6. parl. 12. act. 134. and reduction of *annuellis* and wedsettis. Jac. 6. parl. 12. act. 135. Jac. 6. parl. 11. act. 52. and in reductionis of *forfaltouris* for Nullitie of procese suld be intended and persewed be lettir of grace.
30 Jac. 6. parl. 8. act. 135. Vid. reduction of *kirklandis* annexed to the croun Jac. 6. parl. [11.] act. 29. Vid. reducioun maid in fraud of *creditoris* Jac. 6. parl. 7. act. 117. In fine [act.] dait. 24. *Octobris* Anno *domini* 1581,

Anent decreittis gevin be the lordis. Cap. 8.

Concerning reducioun of decreittis gevin be *the* lordis theme selfis ane distinctioun is to be observed. Becaus gif the pairtie defender compeired nocht to defend in the first instance, Or compeiris and fyndis him 5 self hurte and preiudged be the decret gevin aganist him, he may call and *persew* for reducioun of the decret, for sic ressones as ar competent be the law. C. cum Bartholus. 18. de sentent. et re iudic. Bot in causis of dowbill poynding the pairtie quha is lauchfullie 10 summoned, and compeiris nocht sall nocht be hard in *the* secund instance. Jac. 6. parl. 9. act. 3. vid. Tit.¹ 11. et. 12. h. tit. And Minoris be the saidis actis as also kirkmen or men of kirk quha ar ay esteemed as Minoris be the law ar to be considdered and restored 15 in integrum.

Ane reule anent reducioun of decreittis. Cap. 9.

Generallie all exceptionis and defensis *quhilkis* gif they had bene proponed and alleged in the first instance mycht have stoped the geving of the decret the 20 Fol. 161. samin beand proponed in the secund instance of reducioun is sufficient to annull and reduce the samin decret speciallie gif the cause of absence wes necesser. 1. cum non 10. C. quomod. et quand. iudex. d[e] c. 8.² Jac. 6 parl. 9. [act 3] in fin. Quhilk suld be extended onlie 25 sen *the* making of the foirsaid act allanerlie Anno domini 1584. Jac. 6. parl. 10. act. 19. [anno domini] 1585. With consideratioun and restitutioun in integrum to be had of *Minouris* and kirkmen as said is.

The pairtie comperand in the first instance suld 30 nocht be hard to reduce Ca 10.

Bot gif the pairtie compeired in the first instance and maid defence befor the lordis, and his defences beand

¹ *Lege*, Cap. ² "18" in University Library copy. See note.

repelled decreit *condamnatour* is gevin aganist him he
suld nocht thereftir be [haldin to reduce or] hard to
reduce that decreit. Bartol. in l. querebatur. 62. ff. de
re iudic.

5 Næ man may reduce decreittis be exceptionis
proponed and repelled of befoir. Cap. 11.

Because in the first instance ethir he proponed his
defensis *quhilkis* war repelled In the *quhilk* case he
will nocht be harde in the secund instance to reduce the
10 decreit, be resson of the samin exceptionis and defensis
quhilkis war in the first instance proponed be him, and
repelled be *the lordis*. Quia non licet reducere sen-
tentiam ex eisdem deductis. h. e. ex eisdem excep-
tionibus, que in prima instancia, fuerunt in iudicio
15 deductæ et decisæ.

Næ man will be hard to reduce be resson of ex-
ceptionis omitted be him in the first in-
stance. C. 12.

Gif the pairtie defender compeired in the first in-
20 stance and in the secund [instance] desyris to reduce,
the decreit gevin aganist him, be resson of sic excep-
tionis as wes competent to him, and nocht proponed
bot omitted be him in the first instance he will nevir
be hard to reduce the said decreit, be resson of the
25 said exceptionis omitted be him in the first instance
and now proponed be him in the secund instance.
Quia presumitur illas exceptiones dolose omisisse ut
adversarium postea litibus vexaret, idioque in secunda
instantia non est audiendus, tum quia eius dolus non
30 debet illi prodesse, et alteri obesse, tum quia interest
reip. ut aliquando litium finis sit, et ne sint perpetue
et Immortales. l., 1. ff. de dol. mal et met. except. 1.
properandum. 10. C. de iudic.

Emergent exceptionis in reductionis. Ca. 13.

Nevirtheles it, is to wit, that conforme to the practik and consuetude of this realme, decreittis and sentences may be reduced befor the lordis of counsell and session be the pairtie preiudged thereby, Albeit he compered in the first instance, be sic ressonis and exceptionis *quhilk*is war nocht proponed be him, bot ar emergent & of new cum to his knowlege.

[*Quhat* is] Emergent exceptionis. Cap. 14.

Emergent exceptionis is, *quhilk* wes nocht in rerum natura the tyme of litiscontestatioun in the cause, and therefor culd nocht have bene proponed be the pairtie, sic as any pactioun, transactioun, or *uthir* agrement maid betuix the pairties eftir *the* litiscontestatioun or sentence definitive.

15

Exception of new cummand to knowlege.
Cap. 15.

Fol. 162. Exceptio de novo perveniens ad aures is, that *quhilk* wes in rerum natura the tyme of the litiscontestatioun, and wes unknowin that tyme to the pairtie, and thereftir is cum to his knowlege. l. admonendi 31. ff. de jurejur. As gif any is called and *persewed* as air for payment of dettis, or *uthir* deid of there predicessouris contracted befor there deceis, and decretit *condemnatoure* is gevin aganist the air as air to his antecessoure to pay and fulfill his obleisment, *3it* nevirtheles *the* *samin* wes payed and satisfied be his predicessour of befor his deceis, and ane acquittance and discharge reported be him thereupoun, *quhilk* acquittance and discharge wes in *the* possessioun of ane thrid person nocht knowin to the air : In this caise the air nicht nocht befor the litiscontestatioun or decretit wes *pronounced* aganist him

25

30

propone ane exception of payment or satisfioun
founded upoun *the* acquittance or discharge. Because
the samin wes *nocht* cum to his knowlege, and the air
had iust and probabill ignorance thair of in facto alieno,
5 bot eftirwarde *the* samin acquittance or discharge cum-
mand to *the* airis knowlege eftir the pronouncing or
geving of interloquutorr or decreit. The air hes iust
ground and richt to be restored, to rescind, suspend,
or reduce, the litiscontestatioun, interloquutorr, or
10 decreit, pronounced or gevin aganist him be resson
of his probabill ignorance as said is. Quia quæ de
novo emergunt vel ad notitiam perveniunt novo indigent
auxilio. C. caterum et ibi glos. de juram. calum. extr. l.
1. ff. de ventr. inspicien. l. plane. 4. ff. ut in possess.
15 legator. l. de. etate 11. § ex causa. ff. de interrogator.
actionib. vid. h. tit. 15 of proponing of exceptionis. C.
15. vid. tit. 20. c. 2. et. 3. Tit. 25. c. 9. Mar. Regi. parl.
7. act. 63.

And generallie all summonis of Reductioun bydis con-
20 tinuatioun with certificatioun *the* samin salbe reduced
for non productioun, as dois charges of Improbatioun as
sayd is. Statute [be the lordis] 25 octobris 1577. 16
Novembris 1579. Mentionate of befor vid. h. Tit.
23.¹ Improbation c. 5. etc.

25 And forther It is to be remembrit That in Reductioun
of Retouris seasingis and decreittis following thairupoun
as said is Thair is considerratioun to be had That gif
ane precept of Chancellarie be formalie direct furth
thair of upoun ane speciall Retoure for geving of seasing
30 of ony landis Retourit to *the* Chancellarie Commanding
the shireff to tak securitie for *the* dewitie of *the* saidis
landis during *the* tyme of the waird, or nonentrie and of
the releif auchtand to the kingis maiestie gif these landis
be haldin be service of waird and nonentrie, Or of *the*
35 dowbling of *the* few ferme or of the blansche ferme
dewitie according to *the* halding of these landis retourit

¹ "32" in University Library copy.

conforme to *the* buik callit Responde presentit 3eirlie be
 Ilk *shireff* to *the* chekker in his comptis. Becaus in the
 end of *the* saidis preceptis of Chancellarie (it is sayd)
 Presentibus post *proximum terminum* Minime valituris
 And thairfoir gif the obtenare of this precept furth of *the* 5
 Chancellarie Ly out and tak na seasing upoun *the* samin
quhill ane terme or ma be byrun Eftir *the* dait of *the*
 fairsaid precept his seasing is nocht guid valeid nor
 effectuall Seing *the* raisare of *the* said precept suld
 have cum agane to [the] chancellarie and raisit ane new 10
 precept for geving of him seasing *quhairin* suld be
 agmentit *the* byrun *malles* and dewities of these landis
 sen *the* dait of *the* retour first precept, and ane new
 memoriall of agmentatioun of responde maid thairof.
 vid Jac. 6. parl. 18. act. 14 et 15. Jac. 5. parl. 6 act. 77. 15
 Anent payment of thair blanche dewitie etc. and
 seasingis of¹ *retouris* etc. And this abonewrittin as
 occasion [occurris may be ane exceptioun] or defence
 aganis and *contrare the* seasingis *producit at the* service
 of ony air [desyrand to be servit speciall air to thair 20
predicessouris of these landis *quhairupoun*] sic seasingis
 ar takin [be *the* oversicht abonewrittin.]²

The first buik [or 2 division] of auld [used]
 civile procese

And this for the first divisioun of *the* fourtie Tyillis, 25
 and there chaptouris abone specified Off civile procese :
 Quhereunto is added, The sext proceses and divisioun of
 there chaptouris [heireftir] following (*Quhilkis* sex
 proceses war used in scotland befor the erectioun of the
 college of justice) Togidder with the causis and ressonis, 30
quherefoir they ar heir insert, as [followis for the] secund
 divisioun of civile procese within *this* realme. etc.

¹ "gevin upoun" in University Library copy.

² Margins cut in binding. Words within brackets supplied from University Library copy.

The first Tytill of the processe off falsing of Fol. 163.
domes Contenand 20. chaptouris etc.

Quhilkis ar proffitabill and necesser for understanding
of the auld lawes, and sindrie actis of parliament of this
5 kingdome of Scotland, Bot in place of falsing of domes,
The processe of reductioun of decreittis and sentences
ar now used, sen the institutioun and erectioun of the
college of iustice befor insert in this rolment. Anno
domini 1532. And therefor thir auld formes ar richt
10 necesser to be put in register in memorie, quhat the
samyn war as followis. etc.

The forme of falsing of domes. Ca *primus*.

In the first, the pairtie that fand him greved be the
domes gevin aganist him, did keip and observe *the* forme
15 and ordoure prescryved be *the* act of parliament maid
thereupoun be King James the first At perth the
ellevynt¹ day of *marche* The 3eir of god ane thowsand
foure hundreth twentie nyne 3eiris in his maiesties nynt .1429.
parliament act 116. and Conforme to the actis of
20 parliament Jac. 4. parl. 6. act. 95. et act 99. And .1503.
quhen the pairtie had falsed the dome according to *the*
tennour of *the* saidis actis He asked ane instrument of
the falsefeing of *that* dome quon. attach. c. 13. Stat.
Willi. c. 10. Iter came. c. 34.

25 The rolment of the falsing of the dome.
Cap. 2.

Then the judge gart mak the Rolment of all & haill
the processe of that materis, and Incontinent gart reid
it opynlie in the courte in *presens* of the pairties and
30 closed it within ane throch of paiper under his seill *that*
falsed *the* dome, or under sum uthir seill procured be

¹ "sext" in University Library copy.

him, and *the* judges seill, or the courte seill, and syne
wreit on *the* bak in this maner. Memorandum this is
the rolment of this courte, Tuicheing the falseing of the
domes that A. of B. foirspeiker to C. falsed in the said
courte on thurisdai the first day of Maij The 3^{er} of 5
god etc.

The ressonis maid for defense of *the* dome
that wes to be falsed. Ca. 3.

Then the iudge of the courte, quha first pronounced
the dome that wes to be falsed, and the soyttoure¹ eftir- 10
warde, advysedlie maid there ressones to mantene and
defend there dome, and closed theme within paper under
the iudges seill, and wreit upoun *the* bak: Thir ar *the*
ressonis presentted be sic ane iudge and the soyttouris
to mantene that dome *quhilk* A. of B. foirspeiker for C. 15
falsed in his name in the courte of E. upoun furisdai
the day of The 3^{er} of god etc. And the said rolment
and ressonis closed as said is, salbe presented to the
iudge, or his clerk, that *thai* suld be discussed befor him
withtin fourtie dayis Or ellis within fyftene dayis be 20
the act of parliament. of King James the fourte haldin
At Edinburgh the ellevint day of marche The 3^{er} of
god j^m. fyve hundreth and fywe² 3^{er}is. In the sext
parliament act 95. And he that ressavis the rolment
sall wreit on *the* bak of it. Memorandum That this 25
rolment, or thir ressones. wer delyvered to me sic ane
day moneth and 3^{er}.

11 Martii
1505.

Fol. 164.

The ressonis and defensis for falseing of
the dome. Cap. 4.

Then sall the falser of the dome, advisedlie mak his 30
ressonis aganist the dome, and for mantening the falsing

¹ *Legt*, "soyttouris." See line 14.

² "1503" in University Library copy.

thereof, and cloise theme on paiper with the instrument of the agane calling of the dome under his seill, [or] under sum procured seill, and wreit on the bak in this maner. Thir ar *the* ressonis that A. of B. assigned for
 5 him, quhy the dome gevin in the courte of E. aganist him upoun thurisdai etc. wes evill gevin and weill agane sayd: Syne sall they be presented to the iudge, or his clerk befor quhome they salbe discussed within the tyme prescryved be the said act of parliament maid be King
 10 James the ferd, and he that ressavis thir ressonis fra him sall gar wreit on the bak of theme in this maner. Memorandum that thir ressonis within wreittin wer delyvred to me, the day moneth and 3eir of god Befoir thir witnese.

15 The precept or summonis to sumound the pairtie in quhais favouris the dome that is to be falsed wes first gevin. Cap. 5.

Then sall the iudge, to quhome the ressonis of baith the pairties ar presentted direct his precept to his mair
 20 of fie and his deputtis in this maner followand. W. of E. and schireff of N. till his mair and his deput^ts of the said schirefdome greting fforsamekill as C. hes presentted to ws the agane calling and falsing of ane dome gevin aganist him tuiching the landis of E. as he
 25 sayis in the baron courte of .R. haldin there be him or his baillies ane or ma on thurisdai the first day of Maij The 3eir of god j^m etc. as is proponed¹ in his wreittis closed under his seill thereupoun. To 3ou we bid, and commandis, *that* 3e pas with sufficient witnese to the
 30 chemise of R. and that 3e there sumound *the* said R. lord of *the* said R. To compeir before ws, and oure deputtis ane or ma at oure schireff courte to be haldin at sic ane place the sevint day of the moneth off Julij nixtocum To manteine the said dome, and to do therefoir

¹ "reported" in University Library copy.

that law will, and to bring with him the rolment of the said courte pertening to that cause, togidder with the clerk the seriand and his soyttouris, then present in the said courte, to mak there recorde, and to declaire quhow that mater and the cause standis And that 3e 5 be there the said day and place, bringand with 3ow the witnese 3oure summonis and this precept. And this on na wayse 3e leif undone under all pane and charge 3e may Inrin in that pairt. Gevin under oure seill *the* day of *the* 3eir [of god] etc. 10

Executioun of the precept and Citation of the pairtie. Cap. 6.

Then sall the Mair or his deputtis to quhome the precept is gevin pas with sufficient witnese to *the* Chemise of .R. and there in presence of they witnese, he 15 sall gar reid *the* precept, and quhen it is red, he sall mak summonis in this maner. I .N. mair of the schirefdome of .M. at *the* bidding and Command of .W. of .E. schireff of the said schirefdome summonis 3ow .R. lord of R. heir at 3oure Chemise of .R. this fryday 20 the twelt day of *the* moneth [of] etc. the 3eir of god etc. [To compeir befor the said *sh*ireff or his deputtis ane or ma In his schirefcourt to be haldin at sic ane place the etc. day of etc. The 3eir of god j^m etc.] and *thair* to manteine the dome gevin in 3oure courte of R. be 3ou 25 or 3oure baillies the etc day of last bygane aganist .A. of B. tuicheing his landis of .ff. with the pertinentis and to do therefor as law will, the *quhilk* dome wes agane called and falsed be the said .A. as his wreit under his seill thereupoun delyvered to the schireff foirsaid 30 proportis, and bring with 3ow the rolment of the said courte pertening to that cause togidder with the clerk the serjand and soyttouris than present in the said courte to mak there recorde, and declair quhow that

mater and the cause standis; And of this *summonis* making, as I have maid it I ask 3ow A.B.C. witnese.

The indorsatioun of *the* *summonis*. C. 7.

Then sall the mair, or his deputtis that maid the
5 *summonis* gar writ the recorde of the *summonis* in this Fol. 165.
maner following. I. N. mair of fie of the schirefdome of
.M. At *the* bidding and commandement of W. of E.
schiref of .N. past to the chemise of R. within the said
schirefdome upon fryday the twelt day of etc. The 3eir
10 of god etc. And there I *summoned* R. lord of R. To
compeir befor the said schireff or his deputtis ane or
ma in his schireff courte to be haldin at sic ane place
on *the* sevint day of the moneth of the 3eir of god
foirsaid, and there to manteine the dome gevin in 3oure
15 courte of .R. be 3ou and 3oure baillies the day of etc.
bygane aganist .A. of B tuiching his landis of .E. with
the pertinentis, and to do therefor that law will, The
quhilk dome wes agane called and falsed be *the* said .A.
As his writ Closed under his seill thereupoun deliverit
20 to the said *shireff* proportis, And to bring with 3ow *the*
rolment of the said courte pertening to that cause,
togidder with *the* clerk serjand and soyttouris than
present in the said courte to mak there recorde, and
declair quhow that mater and the cause standis and of
25 this *summonis* making in maner foirsaid I tuik .A. .B.
and .C. witnese, and the mair and his deputtis sall keip
his precept and recorde of his *summonis* in writ as said
is, to the said schiref courte.

Of the persewer comperand and the defender
30 *nocht* comperand. C. 8.

Then he that falsefeid the dome sall cum with his
foirspeiker in courte, and ask at the judge that he may
speik for, and leif obtened, his foirspeiker sall ask at

the iudge that *quhilk* .C. quha falsed the dome presentted to him befor tyme upoun the [agane] calling of the dome Then *the* judge sall say they ar heir, and delyver theme to the clerk to reid. Then sall the foirspeiker ask at the judge to gar call .R. of .R. to 5 compeir to that courte with *the* soyttouris of his courte of .R. to manteine the dome gevin aganist A. of B in his courte of R. the thurisday the etc. day of maij The 3eir of god foirsaid.

The defender is called and compeiris 10
nocht. Cap. 9.

Then the iudge sall gar call him in this maner. 3e .R. baron of R. appeir in this courte, with *the* soyttouris of 3oure courte, as 3e war summoned to manteine the dome gevin aganist .A. of .B. in 3oure courte of .R. 15 the thurisday the first day of Maij, The 3eir of god foirsaid *quhilk* wes falsed and agane called be the said .A. in 3our said courte, and this sall the serjand call thryse.

The precept is produced *witht* the summonis 20
quhilk is veryfied. C. 10.

Then eftir the thrid calling, the serjand sall present his precept to the clerk to reid, and thereftir the recorde of the summonis to reid, and syne prove his summonis with his witnese contened therein. 25

The procese desyred to be falsed is reproduced
witht the ressonis of bayt*ht* the pairties.
Cap. 11.

Then sall the foirspeiker ask at the judge, gif *the* rolment of the courte of .R. tuicheing the falseing of the 30 dome wes presentted to him, and quhere it is than, gif the Rolment wes presentted to him he sall say it is

heir, and delyver it with the ressonis that wes presentted to him be baith the pairties thereupoun, to the clerk to opin and reid.

The persewer findis ane borgh to persew.

5

Cap. 12.

Then gif the defender appeiris nocht with the clerk and his said soyttouris, he that falsed the dome eftir that his ressonis be red sall find ane borgh in the serjandis hand of the courte in this maner. I fynd ane borgh in thyne Fol. 166.
10 hand serjand, and heir ane borgh, to follou my borgh, that be thir ressonis now red, be the clerk of this courte, and als for¹ fault of appeirance of the baroun of .R. with his soyttouris as he wes sum~~m~~oned to this courte to mantene the dome gevin aganist me in his courte of
15 R. the thurisday the first day of Maij, The 3eir of god ane thowsand foure hundreth fyftie and sex 3eiris .1456. tuiching my landis of .ff. with there pertinentis, ad causam, that, that, dome wes evill gevin and weill agane sayd.

20

The procese is advysed. Cap. 13.

Then sall the iudge gar remove the pairtie, and sie that the memberis of courte be all haill but fault, and gar the soyttoure waird, and gar mak the haill procese in rolment of² the end, and syne [gar] call the pairtie
25 agane to heir the dome gevin

Of the dome falsed be resson of ane dilatoure exception C. 14.

And gif the dome makis with the pairtie persewand upoun ane exceptioun dilatoure all the haill procese
30 past thereupoun of befoir is quyte at eird; bot nevir-

¹ "be" in University Library copy.

² See note.

theles the pairtie follower, may begin new thingis¹ his
 procese agane upoun the defender, be atteichment, or
 be new summondis, gif he will, or lykis him to do the
 samyn.

Of ane dome falsed upoun ane Peremptoure ex- 5
 ceptioun. C. 15.

And gif the dome makis with the pairtie be resson of
 ane peremptoure exceptioun: The haill action makis
 with him, sua that he salbe quyte thereof in all tyme
 thereftir, And then the judge sall tak souertie of the 10
 dett that wes obtened aganist *the* defender gif any be;
 And gif the actioun dependis upoun land or annuelrent,
 The pairtie follower sall obtene seasing, as is contened
 in the procese of brevis pleidabill, And the judge sall
 gar raise ane unlaw of aucht schillingis of Ilk soyttoure 15
 that sayd with the dome that is falsed Because all the
 soyttouris of the baroun courte, representtis bot ane
 soyttoure in the schiref courte.

Of baith the pairties comperand. C. 16.

Gif baith the pairties appeiris quhen they ar called in 20
 the courte, Ilk ane of theme sall ask at *the* judge there
 ressonis, and the rolment that wes gevin in to him as
 said is, and gar reid the samyn in maner and ordour
 foirsaid And syne the precept and the summonis proved:
 The dome falser sall first enforce his ressonis, and the 25
 defender and his soyttouris sall object aganist theme gif
 there be any cause, And syne the defender and his
 soyttouris sall enforce there ressonis, to manteine the
 dome. And the falser of the dome sall obiect aganist
 him gif there be any cause, bot Næthir of the pairties 30
 may ad or Minut ma ressonis for theme then they gaif
 up and war then red in the courte.

¹ See note.

The warde and dome of courte gevin in *presens*
of baith parties. C. 17.

Then the saidis ressonis beand red enforced and
objected with baith the pairties as said is. The judge
5 sall gar the pairties remove, and see that the memberis
of courte be haill and lauchfull, and gar the soyttouris
warde sen gar call the pairties in agane: and gar gif
dome eftir the tennoure of the waird.

10 Off ane decreit *condemnatoure* gevin
aganis the persewer. Cap. 18.

Fol. 167.

And gif the dome be gevin aganist the falsar of *the*
dome in the baroun courte, or any uthir judge, The
falsar of the dome salbe in als mony unlawes of that
courte quhere the dome is falsed as there wes soyttouris
15 that sayd with the dome in the first courte, and in ane
unlaw of that court quherevir it be, quhere the dome
is discussed & falseid. and sall fynd borgh for the
said unlawes, or he pairt out of courte, bot gif it be sæ
that he fals that lettir dome gevin in courte incontinent
20 in maner foirsaid:

In quhat courtis domes suld be falsed. Cap. 19.

Gif the pairtie fyndis him greved and Iniured, be any
dome gevin aganist him: He may fals *the* samin dome
in the baroun courte, and syne in the schiref court,
25 and syne in the iustice courte all upoun ane mater: ffor
it is to wit, that all domes falsed in the baroun courte
aucht to be discussed befor the schiref in his courte:
And all domes falsed in the schireff courte, aucht
to be discussed befor the iustice in his nixt air,
30 sua that it be haldin *withtin* fourtie dais, eftir the dome
be agane called, And all domes falsed in the iustice air
aucht to be discussed in parliament And all domes
falsed in ony burgh, kingis burgh or uthiris, *aucht* to be

discussed befor the greit chalmerlane in the courte of
 foure burrowes: Bot gif the actionis dependis betuix
 ane burgh, and ane lord of regalitie, then it aucht to be
 discussed in parliament: And it is to wit that the
 procese of falsing of any dome salbe led and governed 5
 in all thingis in effect to the end, as the foirwreittin
 procese of falsing portoris.

Quhow domes gevin in absens of pairties may
 be agane called. C. 20.

Item it is to wit that [in]¹ quhatsumevir courte except 10
 the parliament, and courte of foure burrowis dome be
 gevin, ane of the pairties beand absent, and the dome is
 gevin aganist the absent, he may within fourtie dais nixt
 eftir following fals the dome in this maner: In the first
 he sall pas with his foirspeiker with notar and witnese, 15
 to the place quhere the courte wes haldin quhere the
 dome wes gevin, and there he sall say thus: It is newlie
 cum to my knowlege, that the first day of the moneth of
 maij last bygane, at this place ane courte wes haldin be
 the lord baroun .N. or his baillie: into the quhilk 20
 courte there wes gevin ane dome aganist me, in greit
 hurte [skayt] and preiudice of me in siclyke cause:
 quherefoir. I ask heir and requyres, the presence of the
 said lord and baroun of N. or his baillies that held the
 said courte, togidder with the clerk of that courte, the 25
 serjand the soyttoir that gaif the said dome: and
 askis the rolment of the said courte or the copie
 thereof at the said lord or his baillies, that held the
 said courte to be gevin to me for the coist, eftir
 the forme of law, or than to assignne to me ressonabill 30
 terme and place, quhen quhair and quhow I or my
 procuratouris may get it for the coist. Then this
 beand sayd, he sall say thus, eftir that he haif pawsed
 a bony quhyle. I A. of B. Sayis heir in presens of 30u

¹ Advocates' Library MS. 25.5.6.

N. depute to the mair of fie of the *shire*dome of .M. and of 3ou *schir* notare and witnese that ar heir. That *the* dome gevin aganist me, tuiching my landis of .E. in favouris of C. in the baroun courte of .R. haldin heir
5 be the sayd lord & baroun of R sic ane day moneth and place be *the* mowth of sic ane soyttoure and sic ane dempster of the said courte is evill gevin in the self and that I afferme be ane borgh in thyne hand Fol. 168.
serjand depute foirsaid, and heir ane borgh to follow my
10 borgh, and be this resson; for quhy I wes unordourlie summoned, and I pro una exceptione protestis for ma [exceptionis and] ressonis, to be gevin up and alleged for me, quhen and quhere it effeiris of law, and heirof I and all uthir my prolongis foirsaid. I ask 3ou *schir*
15 notare ane instrument. Then sall the pairtie that falsset the dome rais that instrument, and mak his resson on paiper aganist *the* dome and cloise theme with the instrument in paiper seillit on the bak with his seill, or sum uthir seill, and gar writ on the bak of
20 that paiper Thir ar the ressonis. And *withtin* fourtie dayis nixt following the falsing of the dome The saidis ressonis and instrument closed salbe deliverit to *the* iudge, befor quhome the dome salbe discussed and at the ressait of theme salbe wreittin on *the* bak.
25 Memorandum: thir ar the ressonis etc.

The second Tytill of the procese [Of the breve] of perambulatioun Contenand Twentie chaptouris

The raising of the breve. Cap. 1.

30 In the first the pairtie that thocht him hurte in the *merches* of his landis Come to the Chancellarie, and raised ane breve of perambwlatioun direct to the iustice generall to perambull the richtious *merches* and divisis

betuix sic landis pertening to him on *the* ane parte,
and the landis of sic ane man on *the* uthir pairt in
maner following. Bot be the ordoure now used, the
iustice generall directis his summonis at *the* instance
of *the* partie complenand.

5

The tennor of the breve. C 2.

Rex .A et B. fidelibus suis iusticiariis hac vice assignatis.
Salutem. Mandamus vobis et precipimus quatenus, per
probos et fideles et antiquiores homines patrie iuste et
secundum assisam terre perambulari faciatis rectas 10
divisas inter terras de .ff. que sunt talis et tali tenemento
in vicecomitatu de .A. ex parte una Et terras de .C.
quæ sunt talis in eodem tenemento ex parte altera, et
sicut dicte divise iuste et secundum assisam terre peram-
bulate fuerint ita eas de cetero faciatis firmiter observari 15
Teste me ipso. etc. And this breve suld be presented to
the iustice, and quhen he hes ressaved it he suld direct
furth summonis upoun the breve upoun¹ his precept
direct to *the* shiref of the schyre quhere the saidis landis
lyis To summound the pairtie to compeir befor him his 20
deputtis or steidhaulderis, upoun the ground of the
saidis landis sic ane day to heir and se sic merches
perambulate, and to summound ane assyse of *the* cuntrie
to pas upoun *the* same perambulation in this maner as
followes.

25

Fol. 169.

The tenore of the [justice] precept. Cap. 3.

Iusticiarius etc. vicecomitj de .B. Salutem. Quia recip-
imus breue domini nostri regis. de perambulatione, ad
perambulare faciendum rectas metas et divisas inter
terras de ff quæ sunt talis ex una, et terras de .C. que 30
sunt talis ex parte altera Jacentes infra balliam vestram.
Vobis precipimus et mandamus quatenus legitime et cum

¹ "be" in University Library copy.

testibus legalibus *summoniatis* seu *summonire* faciatis
dictas partes, ad capitale messuagium dictarum terrarum :
quod compareant coram nobis seu deputatis *nostris*
pluribus vel uno tali die super solum dictarum terrarum
5 ad faciendum et subeundum id quod in hac parte iuris
ordo requirit, Et hoc nullo tenus omittatis sub *omni* pena
que poterit in hac parte, Et sitis vos vicecomes et balliui
vestri ibidem dictis die et loco, habentes vobiscum
summonitionis *vestræ* testimonium, et hoc breue Datum
10 sub sigillo officii *nostris* etc.

Executioun of *the* *summonis*. C. 4.

And this *summonis* suld be execute at the Chemise of
baith the landis that ar in play upon fourtie dais
warning /

15 The *summoner*. Cap. 5.

Quhen the schiref, hes ressaved the iustice precept
and breue togidder ; he may ethir [him] self or his
deputtis mak the *summonis*, Or [may] gif the precept
and breue to the officer [or serjand] to mak the *summonis*
20 in maner foirsaid

The place and indorsatioun. Cap. 6.

Item the schireff or his deputtis, or the mair, with this
precept suld pas to the ground of the landis, and to the
Chemise befor witnese mak the said *summonis*, and
25 thereftir indorse the precept *quhairwith* the *summonis* is
maid

The fensing [and forme] of the courte. C. 7.

Item the day cummand, to the *quhilk* the parties ar
summoned, the iustice or his deputtis suld cum to *the*
30 ground of the landis at the courte tyme of day : and

there suld fens ane iustice courte, syne reid the breve, and the schirefis precept of *summonis*, and the mairis precept gif there wes ane, *quhilk* beand red : The iudge sall cause the clerk, call the pairties, to heir and see ane assyse chosin and sworne to perambule they landis, and 5 that breve put to dew executioun.

The *summonis* is called & provin. C. 8

And quithir the pairties *compeir* or nocht, quhen *the* pairties ar called, cause the executour of the *summonis* to prove his executioun with twa witnese at *the* leist. 10

Defensis of pairties. Cap. 9.

Item eftir the *summonis* is provin dewilie execute: then suld the iustice, and his deputtis ask at the parties gif they or any of theme hes ocht to say aganist the breve, quhy it suld nocht be put to ane assyse, and then heir all 15 there allegationis, *quhilk* thei salhappin to mak be law and resson.

The assyise. Cap. 10.

And gif na thing be objected or alleged be *the* parties and speciallie be the defender, that may stope *the* breve 20 to pas to the knowlege of ane inqueist, Then cheise the assyse to ane lauchfull numer, and eftir that they ar *ressaved* sworne and admitted, send theme furth of courte to pas about *the* saidis landis, and put in propis, and markis as *thai* think ressonabill, and thereupon mak 25 *thair* recorde under there seillis and the iustice seill.

Fol. 170.

Exceptionis. Cap. 11.

Item brevis of perambulatioun, ar raised *sumtymes* with consent of baith the pairties, and then there

cummis few exceptionis, bot aganist the assyse and suspect personis Uthir tyme the pairtie raises the breve aganist the will of his marrow and without his consent, and then¹ cummis mony exceptionis that suld have place
5 and stope the procese and passaige of the breve.

Exceptionis contrare the judge C. 12.

In the first gif the pairtie defender will nocht suffer *the* procese and breve to pas fordwarde, he sall first consider the iudge, and luik gif there be any exceptioun
10 aganist him as gif he be, first, of kin and alia to the pairtie. 2. or maister to him. 3. or hes tane his pairt. 4. or gevin him *partiall* counsell. 5. gif he [be] enimie to the defender. 6. gif he be unlauchfull as bastarde. 7. or Infamous. 8. Mensworne. 9.
15 convict of perjurie *on* ane greit assyse. 10. or convict of treason unreabilled. 11. gif he hes nocht his *commission* to schaw that he is sworne to the office to minister iustice. 12. or gif he be nocht past xxiiij
30 3eiris of age. 13. Or gif he be proprie potestatis or nocht, under cuir of folie or furiositie, et si aliquando furiosus habens intervalla dilucida. 14. gif he may reporte any proffet of that *mater*. 15. gif he hes tane any rewarde or promese of rewarde, and gar purdge him thereof.

25 Exceptionis aganist the schiref and *ut/iris* memberis of courte. C. 13.

Item gif there be na exceptioun aganist the judge Then sall the partie defender consider the rest of the membris of courte that is to say the schiref or his
30 deputtis that standis for serjand and the clerk, and the demstare, and consider gif any of thir be suspect in any of *the* poynttis that is wreittin aganist the iudge,

¹ "there" in University Library copy.

and there be nocht ane schiref and schiref depute to serve in the court all is of nane awaill, And all the samin exceptionis may [be] proponed aganist the clerk, or schiref or dempster that may be sayd to the judge, and gif any iust exceptioun be repelled, the pairtie 5 may ask instrument thereupoun and protest for remeid of law.

Exceptionis aganist *the* summonis. C. 14.

Item gif there be na exceptioun aganist the iudge schiref, mair, clerk serjand nor dempster, Then ask 10 the breve and summonis to be red, and consider gif the summonis be maid at the chemise of the landis that suld be perambuled, and nocht at the duelling place, bot gif the pairtie duellis in the chemise, and see that baith *the* pairtis be summoned 15 alyke, baith the defender and the follower: gif there want any of thir poyntis *the* breve suld ceis Consider also that *the* ordour be keiped in the making of the summonis, as be the iustice precept direct to *the* schiref and execute be the schiref, or be the schirefis precept, 20 direct to the mair, and gif the mair be executour, then sall he have baith the schirefis precept and the iustice precept to be schawin, and sæ gif he hes witnese reddie to prove the executionis, gif there want any of *thir* thingis the breve suld ceis, Mairover gif the summonis 25 be maid on ane halie day, or on fourtie dayis warning.

Anent personis haifand entres. C. 15.

Item gif na exception be fund aganist the summonis, then consider gif there be any personis, that ar nocht summoned and hes enteres in they landis ethir of 30
 Fol. 171. *propirtie* or *commountie*, Or gif there be any uthir persone *that* hes fie or superioritie, or franktenement, or lyfrent of any of the landis pertening to ethir of the pairties

followand or defendand, and gif there be any sic personis, and they be nocht specified in the breve and in *the* *summonis* all suld ceis.

Exceptionis aganist the breve C. 16.

5 Item all parties haifand enteres beand lauchfullie *summoned*. than considder, gif that land wes any tyme bygane perambulate for then the breve suld ceis Siclyke considder gif the breve be Rased, or interlyned in any place or pairt. Or wanttis ocht of the *commoun* forme.

10 The entrie or tytill of *the* persewer. C. 17.

Item gif there be na fault fund with the *summonis* nor breve, then the pairties suld gang to pley, quhereanent it may be first oponed be the pairtie defender aganist the persewer as to speir quhat enteres he hes
15 to that land, and gif he sayis that it is his heretaige, bid him schaw that, gif he hes nocht his seasing, at the leist present to schaw the breve suld ceise, quhill he schaw it, and gif he schawes any seasing or heretabill richt, and there be any fault that can be espyed in it,
20 the defender may except aganist it, and stand thereat.

The personis of Inqueist. C 18.

Item gif there be na lauchfull exception, anent the personis *summoned*, *summonis*, nor breve, then gang to *the* clame cause reid it, and gif *thair* be na thing to
25 oppone aganist It, Then chuse the assyse, and *thair*anent considder gif the assyse ilk man be lauchfullie *summoned* and syne propone exceptionis aganist theme, all that 3e can, and tak the exceptionis, out of the iudges pairt *that* is aganist him [befoir wreittin] for all they will
30 serve contrare *the* assyse.

Boundand chartare. Cap. 19.

Item gif there be gottin ane *unsuspect* assyse, Then gang agane to the clame, And gif the pairtie alleges, that the *merches* of that land, suld pas fra this place to *that* place be¹ this syke or bray, or fra this rod gait 5 or burne Then sall the defender consider gif there be any boundand charter, and gif they produce ane, Allege that *the* Names of *the* *merches* ar wrang, And say that sic sykis, stanis burne or uthir *merches*, ar in uthir places, and nocht quhere *the* persewer alleges thame 10 to be, and that hes bene ay weill knawin in the cuntrie and be *commoun* use *commoun* voice² and fame.

Continuall possession Cap. 20.

Item gif there be nocht ane boundand chartare then gif the persewer allegis the *merches* hes bene in sic 15 places to the defenderis hurte: Then sall the defender allege that the *merches* wes nevir thair, bot in sic uthir places as he understandis be his richt, and allege that he hes [*evir*] bene in *continuall* possessioun thereof be they *merches*, and that sua they ar, and ay hes bene 20 and suld be, Item gif the defender hes ay had possession let him tak on *the* assyse (gif he may get theme) that kend his use and possession and gif he had nocht the possessioun desyre uthir men to be [*put*] upoun the assyise that kend littill, and therefoir will deny 25 *merches*, be *ressonabill* appeirance etc.

Fol. 172.

Certane auld rewlis contened in the ancient register of the kingdome of Scotland, anent the meithis and *merches* of landis, [*as followis* etc.].

30

All landis, quherevir they be
in Scotland partis, hes *merchis* thrie

¹ "to" in University Library copy.² "voit" in University Library copy.

Of and cūik proceſe.

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Certane and zeklie contened
in the ancient regiſter of the
Kingdome of Scotland, anent
the merthie and merchees of land.

In landie. quherin they be
in Scotland partie, hee merchie thrie
heidrobme, Wattir, and monthie borde
as clon men, hee maid recorde.
Zome heidrobme, to the hill direct

Getnæ twa glēis, and monthis borde
Debydis they glēis, I sall stand forde
Wattri cūmand fra, ane glen heid
Debydis that glen, and stanches feid
Thortrom burmis in monthis hie
Sall stopenæ heidreim, thocht they be. if



heidrovme, wattir, and monthis borde
 as eldron men, hes maid recorde.
 3oure heidrowm, to the hill direct
 fræ 3oure hauch teilled in effect.
 5 Betuix twa gle~~n~~nis, and monthis borde
 Devydis they gle~~n~~nis, I sall stand forde
 wattir cummand fræ, ane glen heid
 devydis that glen, and stanches feid
 Thortrom burnis in monthis hie
 10 Sall stope næ heidrov~~m~~, thocht they be. etc.

[*Half of folio 172 blank.*]

The thrid Tytill of the forme of the breve of Fol. 173.
 division Contenand as followis

Gif any portioner of landis, of twa thrie or ma *partis*
 fyndis theme greved and trubled, anent there landis, he
 15 quha thinkis him self interest or hurte in the occupation
 labouring or manuring of his pairt may pas to the
 chancellarie and raise the breve of divisioun direct to
 the schiref for taking Cognitioun in the said mater, eftir
 the forme and tennoure of the chancellarie: The *quhilk*
 20 breve *the* schireff sall ressave, and cause proclame the
 sam~~i~~n at the heid burgh of the schyre quhere the landis
 lyis upon the *market* day thereof upoun the pre-
 monitioun of fyftene dais or langare, to be served
 upoun the ground of the landis, contened in the said
 25 breve, and to cause the officer to warne baith the
 pairties, and all uthiris haifand enteres to *compeir* the
 said day and place to heir and see the said partesing
 lauchfullie led and maid, and to cause to sum~~m~~ound
 ane inqueist of the eldest men that best knawis the

veritie to sufficient Numer leist suspect To *compeir* the samin day and pas upoun the inqueist for partesing of *the* saidis landis Ilk person under the pane of ane unlaw, and eftir *the* inqueist hes pairted and divyded *the* saidis landis, the clerk sall put the samin in forme, 5 be the richt meithis and merches and as the said inqueist delyveris: The schiref sall decerne the samin to be observed and bruiked in all tymes to cum. Conforme to the delyverance of the said inqueist.

Memorandum that the forme of this procese is 10 almaist conforme to *the* breve of *perambulation*, and *the* lyke exceptionis may be heir used and proponed aganist the memberis of courte *summonis* breve and pairties haifand enteres. Alwyse it is to wit particularlie tuiching the divisioun of landis maid betuix any 15 portioneris, to ken Ilk ane for there awin pairt is of nane awaill, gif the samin be maid without ane breve of divisioun direct furth of the chancellarie in dew forme: And therefor the schiref or uthir iudges, beand charged be *letteres* of the lordis of sessioun or nocht haifand 20 speciall *commissioun* frome theme to that effect is nocht competent judges to the divisioun of landis or to ken ony man to his pairt thereof. Jac. 6. parl. 11. act. 42.

Item the breve of divisioun requyris nocht sa speciall ane clame as suld be in the breve of inqueist, and 25 therefor the generall clause thereof (*cum pertinentiis*). Comprehendis housis biggingis muris mosis woddis medois mylnis The *quhilk* all and sindrie aucht and suld be divyded Albeit they be nocht speciallie expremed in the breve or clame. Item the persones of inqueist suld 30 observe and keip ane equalitie in the divisioun, for gif the landis be unequitablie¹ divyded, and any of the parties portioneris be hurte be the divisioun thereof the samin is of nane awaill, As gif pairt of the landis assigned to ane be divisioun is of les awaill and proffett be 35 3eir, then *the* pairt assigned to *the* ane uthir *partie* etc.

¹ "unequalie" in University Library copy.

The fourt Tytill of the procese betuix the lord Fol. 174.
and the tennent, anent the payment of his
maillis and dewitie Contenand as followis etc.

The lord of the ground haifand power of courte may
5 set ane courte upoun fyftene dais or langare and gar his
serjand with witnese *sum*mound and warne the tennent
and occupyare of the landis, quhatsumevir he be, be his
richt name that haldis and occupyis the ground, that he
comeir at that courte and at that dyet the courte is sett
10 to, and at the place the courte is set in to ansueir to
him that the ground aw, for the wrangus occupatioun
manuring labouring and withhalding of the ground, And
the awner thereof sall say to the occupyer Quherefoir
and quhy and be quhat richt occupyis thow *this*
15 ground?: quhider be richt of thyself or be richt of
me, for thow knawes weill that the ground is myne,
and I have be my serjand warned the to flit out
of it, and to devoid the of it? and gif thow sit
attoure that charge to pay dalie maill xxs. for
20 the maill of the ground, and this I trow thow wilt
nocht deny: And gif the occupyare of *the* ground
granttis that charge gevin to him in maner foirsaid The
awner of the ground sall tak witnese of the courte of
the occupyaris grant, And charge his serjand in plane
25 court to pas to the ground and tak the guidis that
occupyis *the* ground Inwith the house and outwith and
lay his wande upoun it baith cattell corne and insicht,
and call *nichtbouris* of the foure half about, (bot nane
of *the* awneris awin men *that* ar dalie in houshold, for
30 suspitioun that it be sayd¹ that he do any wrang
previlie or partiallie aganist the law.) to the numer of
foure or fywe men, and gar theme sweir to appryse all
they guidis Ilk thrid *pe*ny within the worth, for that
Ilk maill, and gif *that* man be awand the maill, for any

¹ "nocht sayd" in University Library copy.

termes bygane or of befor: they guidis sall mak *the* first payment of the first dett.

And gif the occupyare will deny the maill of any of the termes bygane. Or the sett maill that *the* serjand warned him with all in the awneris behalf. The awner 5 sall gar cheis ane wirthy assyise of *the* best and wirthiest that hes best knowlege of that mater, quhidder the occupyare sayis suith or nocht, and on theme and on god be it, quhidder that his ilk denyell be of awaill or nocht. etc. 10

Fol. 175.

The fyft Tytyll Off the procese, of schawing of halding the *quhilk* forme of procese of foure courtis wes used be the auld lawis In all civile and criminall causis and as 3it may be used in baron courtis. Contenand nyne 15 *chaptouris*

The precept direct be the overlord to the serjand. Cap. *primus*.

Anent the *summonis* making of the schawing of halding. It is requyred in the first That the lord direct 20 his precept till his serjand under his seill in this maner. A. of B. lord of the baronie of .C. within the schirefdome of D Till E my serjand of my said baronie Greting. I charge and I *command* the, that *thir* my letteris be *the* sene thow pas but delay to the chemise of the landis 25 of ff Lyand within my said baronie, and there thow *summond* Lauchfullie befor sufficient witnese .H. of I. that callis him tennent of the saidis landis of .ff. Lyand within my said baronie. To compeir at N. within the said baronie, befor me his over lord of the 30 said tenandrie in my courte *thair* to be haldin in sic ane place the tent day of the moneth of apryle The 3eir of god ane thowsand foure hundreth and auchtie or fourescoir of 3eir, for to schaw me his halding his

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charter and evidentis, gif he any hes, how and be
 quhat tytill of rycht and for quhat service he clames
 to hauld the tenandrie of the saidis landis of .ff. of me
 lord of the said baronie, and to do to me for theme sic
 5 service as he aucht to do and as law will and as use
 and custome is within the kinrik of Scotland in siclyke
 caise, And be thow there the said day and place *witth*
 this precept, thy *summonis*, and witnese, And this on
 nawyse thow leve undone under all charge that thow
 10 may Inrin Anent me in that pairt. Writtin under my
 signet. At C. the first day of the moneth of maij The
 3eir of god 1480.

The execution of the precept and Citatioun of
 the tennent. Cap. 2.

15 Then eftir that the said precept be gevin to *the*
 serjand the said serjand sall pas with twa or thrie
 sufficient witnese to the Chemise of the said tenandrie
 of .ff. and there in *presens* of they witnese, he sall schaw
 his precept and gar reid it, and quhen it is red he sall
 20 say thus. E serjand of the baronie of C. within the
 schirefdome of D at the bidding and *commandiment*
 of my lord .A. of B of *the* barony foirsaid *summonis*
 30w .H. of I. that callis 3ou tennent of *the* landis of ff,
 that lysis within the said baronie heir at 3oure Chemise
 25 this fryday the secund day of Junij. The 3eir of god
 j^m iiij^c auchtie 3eiris To compeir befoir my said lord. A 1480.
 of B 3oure overlord of the said tenandrie in his *court*
 to be haldin at .N. in sic ane place the sevint day of
the moneth of Julii, The 3eir of god forsaide. ffor to schaw
 30 to him 3oure halding 3oure charter and evidentis gif 3e
 any have how and be quhat tytill of richt and for quhat
 service 3e clame to hald the said tenandrie of the saidis
 landis of my said lord 3our overlord, and to do to him
 sic service as 3e aucht to do of the law and as use and
 35 custome is in the kinrik of Scotland in sic caisis. And of

this my *summonis* making as I have maid it I [tak]
 3ou a b c witnes.

Fol. 176.

The indorsatioun of the *summonis* Cap. 3.

Then the serjand sall [gar] writ the recorde of his
summonis in paiper in this maner. I E serjand of *the* 5
 baronie of C. at the bidding and commanding of my
 lord A of B. baron of C. within the schirefdome of D.
 upoun fryday *the* secund day of Junij The 3eir of god
 1480. ane thowsand foure hundreth and auchtie or fourescoir
 3eiris Past to *the* chemise Lyand within the said 10
 baronie, and there I *summoned* H of I that callis him-
 self tennent of *the* saidis landis of ff with the pertinentis
 To compeir befor my said lord A of B. his overlord of
 the saidis landis of ff with the pertinentis in his courte
 to be haldin at sic ane place the sevint day of the 15
 moneth of Julij the 3eir of god foirsaid for to schaw
 to him his halding his charteris and evidentis gif he any
 had how and be quhat tytill of richt and for *quhat*
 service he clames to hald the tennandrie of the saidis
 landis of ff. with the pertinentis of my said lord A. of 20
 B. lord of the said baronie of C. and to do to him for
 theme sic service as he aucht to do as the law will
 and as use and custome is in the kinrik of Scotland in
 siclyke caise, And of this *summonis* making in maner
 foirsaid I tak A. B. C. witnese. Then sall the serjand 25
 keip *the* precept and bring it with this recorde of the
summonis to the nixt courte with himself and his
 witnese.

The rolment of the first courte. C. 4.

The baron courte of [The baronie of] .C. haldin At sic 30
 ane place the sevint day of Julij The 3eir of god ane
 1480. thowsand foure hundreth and auchtie or fourescoir 3eiris
 befor A of B lord and baron of the said baronie. The

quhilk day the soyttis called, and the courte affermed.
 The said lord Asked at E. his serjand of the said baronie
 gif he had maid *summonis* till .H. of .I. tennent of the
 landis of ff. Lyand within the said baronie for till appeir
 5 [befoir] him in this said courte To schau his halding
 quhow and be quhat tytill of richt he clames and haldis
 the landis of ff with *the pertinentis* of him, and to schaw
 his chartaris and evidentis gif he any hes quhow and for
 quhat service he clames to hald of him the saidis landis
 10 of ff. with the *pertinentis* and to do to him that he
 aucht to do for theme as law will, and as use and
 custome of the kinrik of scotland in sic caise to do, to
 his overlord as he gaif him in *commandment* to do
 befoir tyme The *quhilk* serjand sall say 3ea, and
 15 thereftir sall first gif his precept to *the* clerk to reid,
 and eftir that sall gar reid the recorde of his *summonis*
 and the precept with the recorde beand red, *the* witnese
 men sworne the greit aith that they present war harde
 saw and for witnese war takin the said day and place,
 20 quhen and quhere the said serjand maid *summonis* to
 the said .H. of I. in forme and maner as the [said] bill of
 recorde proportis. That beand red and *the* said H. of
 I. oftymes called and nocht comperand and hie tyme of
 day biddin The said lord A of B. baron of *the* said
 25 baronie sall ask that it be awarded be the courte the
 said H. of I. to be in ane default of *the* courte for
 default of the comperance, and quhow this procese
 aucht to proceid, and he depairt as the first day Then
 the courte counselled and avised ane soyttoure of it be
 30 the informatioun of his followis sall say thus This
 courte is counselled and I awarde, that *the* said H. of I
 is in ane default for his absence this day, and that the
 serjand with witnese men sall pas to the chemise of the Fol. 177
 saidis landis of ff and mak new *summonis* there to the
 35 said .H. of I to appeir to the nixt courte to be haldin
 here in maner and forme foirnemed as the uthir day,
 and there to tak ane distres and lat it to borgh gif it be

asked, to be entered at *the* nixt courte and to depairt as law will untill *the* second day The *quhilk* god willing salbe the xiii day of *august* nixtocum eftir this courte.

The rolment of the second court. C. 5.

5

The baron courte of the baronie of C. haldin there the xiiij day of the moneth of *august* The 3eir of god foirsaid befor .A of B lord and baron of *the* said baronie. The *quhilk* day the soyttis called and the courte affirmed. The said lord asked at his serjand 10 E. gif he had fulfilled the warde gevin in his last courte, tuiching .H. of I quha callis him tennent of *the* landis of ff. the *quhilk* serjand sayd 3ea, and gaif in [the] recorde of his *summonis* in wreit in maner foirsaid and gart reid it / Thereftir he may say that he 15 tuik ane horse or sum uthir thing for ane distrese and did lat it again to borch to the said H. of I to entir it to *the* nixt courte and to depairt as law will to the second day, and schew him that Ilk courte suld be god willing *the* xiiij day of *august*, and of this *summonis* making 20 and distrese taking and latting it to borch as said is he tuik a. and b. witnese Syne he sall pruiif his *summonis* and the taking of the distrese the latting of it to borch in maner abonewrittin Then the said H. of I beand oft tymes called, and the tyme of day biddin, and he 25 nocht *compeirand*. The said .A. of .B. asked to be awarded of *the* courte, the said .H. of I. to be in ane default [for the default] of his appeirance at this day, and quhow this procese *aucht* to proceid and be led, and he to depairt as the second courte. Then the courte 30 counselled and avised ane soyttoure of it be *commoun* informatioun sall say This courte is counselled and I waird that .H. of I is in ane default of his absence of this day: And that *the* said serjand with witnese men pas to the *Chemise* of *the* landis of ff. and mak new. 35

summonis till .H. of I. To compeir at the nixt courte to be haldin there in maner and forme as he wes first summoned, and that as to the thrid courte, and there to tak ane distres and lat it to borgh gif it be asked to
 5 be entered at *the* nixt courte to departe there as law will as the thrid courte The *quhilk* court god willing salbe the twysday the last day of september nixtocum eftir this courte.

The rolment of the thrid court. C 6.

10 The baron courte of the baronie of C. haldin there the tuisday the last day of September The 3eir of god ane thowsand foure hundreth auchtie 3eiris Befoir A 1480.
 of B baron of the said baronie. The *quhilk* day the soyttis called and the courte affermed the said lord
 15 Asked at his serjand, gif he had fulfilled *the* warde gevin in the last courte tuicheing H of I. *quhilk* callis him tennent of the landis of ff. the *quhilk* serjand sayd 3ea, and gaif in the recorde of his summonis in wreit in maner foirsaid and gart reid it syne proved *the* summonis
 20 in forme abonewrittin and the distrese takin lattin to borgh agane this courte Then *the* said .H. of I. wes oftymes called, and the tyme of day biddin and he nocht compeirand. The said lord asked to be awarded of courte The said .H. of I. to be in ane default for the
 25 default of his compeirance and how this procese aucht Fol. 178.
 to proceed, and he to depairt as the thrid courte Then the courte counselled and advised, ane soyttoure of it be informatioun sayd, This courte [is] counsellit and I waird that this .H. of I. is in ane default of his
 30 absence for this day : And that the serjand with witnese men sall pas to the chemise of the landis of ff. and there mak new summonis to the said H of I to appeir in the nixt court to be haldin heir in maner and forme as he wes summoned to the thrid day, and then to tak

ane distrese, and lat it to borgh gif it be asked to be entered at *the* nixt courte fairsaid and [to] depairt as law will for the ferd courte The *quhilk* court god willing salbe the thurisdai the ferd of Junij nixtocum eftir this courte.

5

The rolment of the ferd courte. C. 7.

1480.

The baron courte of the baronie of C. haldin there *the* thurisdai the ferd day of Junij, The 3eir of god *j^m iiij^c* and auchtie or fourescoir 3eiris Before A of B lord and baron of the said baronie. The *quhilk* day 10 the soyttis called and the courte fensd and affermed The lord asked at his serjand gif he had fulfilled the waird gevin in the last courte tuiching .H. of I. *quhilk* callis him tennent of the landis of .ff. The *quhilk* serjand sayd 3ea and gaif in the recorde of his *sumonis* 15 in wreit in maner fairsaid, and gart reid it syne proved the *sumonis* in maner abowwritin, and the taking of the distrese and the borrowing thereof to be entered and to appeir in the nixt courte and to depairt as law will Then the said .H. of I wes oftymes called and 20 tyme of day biddin and he nocht compeirand, The said A of B lord and baron of the said baronie of C. asked dome of the courte of the said tenement that it aucht to be recognosced, and appropriate in his handis for Null defence and there to abyde quhill it be recovered 25 fra him as lawe wald, and how this procese aucht to proceid, and he to depairt as the ferd courte day that *the* tennent nethir come himself, na nocht ane for him send, Then the courte counselled and advysed sic ane soyttour respeited¹ (*id est continued*) the waird and the 30 dome to *the* nixt courte thereftir to be haldin thereupoun the furisdai the ferd day of Junij And the serjand sall pas to the Chemise of *the* tenement of .ff. befoir sayd

¹ "repeitted" in University Library Copy.

with witnese men and mak new *summonis* to H. of I.
as tennent there to compeir the said day & place in
the courte befor the said lord his ovirlord of *the* said
tenandrie, and to the heiring of the dome belangand
5 to the said tenement of ff. and him as tennent thereof
for default of appeirance, and for Null defense befor
the said lord in his courte haldin the thurisday *the*
ferd day of Junij, *quhilk* wes the ferd courte of the
said lordis procese led upoun him to schaw his halding of
10 the said tenement of ff. to him as his overlord thereof as
he that wes *summoned* thereto of befor: Then sall
the serjand pas with *the* witnese men to the Chemise
of .ff., and there sall mak *summonis* in this maner follow-
ing I S. serjand of *the* said baronie of C. within the
15 schirefdome of D. At the bidding and *commandiment*
of my lord .A of B and baron of the said baronie
summonis 3ow .H. of I tennent of the landis of .ff.
Lyand in the said baronie heir at 3oure Chemise the
twelt day of Junij, The 3eir of god j^m iiij^c and auchtie 1480.
20 3eir To compeir befor my said lord A. of B. 3our
overlord of the said tenandrie of ff. in his courte to be
haldin *the* thurisday the ferd day of Julij nixtocum ffor
to heir the dome gevin belangand to 3oure tenandrie
of .ff. and 3ou as tennent thereof ffor default of 3oure
25 appeirance befor my said lord in his courte haldin the Fol. 179.
thurisday the ferd day of the moneth of Junij, last
bypast *quhilk* wes the ferd courte of his procese led
aganist 3ow for to schaw 3our halding of 3oure tenandrie
of the saidis landis of ff. as overlord to 3ou in forme
30 and maner as 3e war *summoned* thereto of befor,
and of this my *summonis* making as I have maid it
I tak witnese of 3ow A. B. C. Then sall the serjand
gar writ the recorde of his *summonis* in paiper and *the*
names of his witnese in forme used of befor of uthir
35 *summonis* and keip that recorde in writ to the nixt
courte.

The rolment of the fyft courte and pronuncia-
tion of the dome. C. 8.

1480. The baron courte of the baronie of C. haldin there
the thurisdai the ferd day of the moneth of Julij The
3eir of god j^m iiij and auchtie 3eiris Befoir A of B. 5
lord and baron of the said baronie The *quhilk* day *the*
soytis called and the courte affermed The said lord
asked at the serjand gif he had fulfilled the waired gevin
him in *the* last courte Tuicheing .H of I *quhilk* callis
him tennent of the landis of .ff. The *quhilk* serjand 10
sall say 3ea and gif in the recorde of his summonis in
wreit and gar reid it and syne proves his summonis be
his witnese men in *maner* foirsaid and the distres takin
and lattin to borgh to be entered agane to his courte
Then the said H. of I. oftymes called and tyme of day 15
biddin, and he nocht comperand. The said lord asked
the dome of the last courte that wes puttin in respleit
[(*id est continuation*)] to this courte Tuiching the
reconiseing and appropriating of the tennandrie of .ff.
foirsaid in his handis for Null defence In lykemaner as 20
he asked in the last courte haldin heir of befoir Then
the lord removed out of courte, the courte recounsellid
and advised, gart *the* said lord entir in agane in courte :
[Dome.] And then ane soytour and the domester of the said
courte Gaif dome in *this* maner following: This courte 25
awairdis for law, and I gif for dome, that A of B. lord
of this baronie of C. is cum to the propirtie and
possessioun of tennandrie of the landis of .ff. with the
pertinentis Lyand *withtin* the said baronie and within
the schirefdome of D in default of appeirance and for 30
null defense of .H. of I in the last courte haldin heir
of befoir, *quhilk* wes *the* ferd court of the said lordis
processe led upoun him to schaw his halding of the said
tenandrie of .ff. to him as his *overlord* thereof and that
the saidis landis of .ff. with the pertinentis remane and 35

abyde in the handis of the said lord .A of .B. ay and quhill they be recovered out of his handis as law will.

Of the tennent comperand in any of the foure courtis. Cap. 9.

5 Item the said .H. of .I. tennent of the landis of ff
appeirand in any courte befor the ferd courte, or at
the ferd courte to schaw his halding, as he wes sum-
moned to that effect, he sall behave himself in this
maner following: In the first eftir he be called till
10 compeir, he sall entir and heir his lordis accusatioun,
he sall ask the procese led upon him in the courtis of
befoir to be red be the clerk and quhen they ar red he
sall tak and use his exceptioun there agane, gif there
be any cause, And gif there be na cause, he sall ask
15 sicht of the summonis, and of the summoneris power
of his office, and see that he have speciall power to
mak summonis to him to schaw his halding, and gif
he schawes his power, he sall ask of his precept direct
to him to mak the summonis, and gif he hes na lauchfull
20 power to schaw. Allege aganis him that the summonis
therefoir is of nane awaill As it is writtin in the first buik
of regiam maiestatem. c. 6. vers. 1. 2. 3. 4. 5. [and] 6. Fol. 180.
[etc.]. Then he sall ask *the* recorde of the summonis,
and the summonis to be provin, and to propone there
25 aganist exceptionis dilatouris, and peremptouris gif he
any had, and gif [he] may na exceptioun quherefoir he
aucht nocht to schaw his halding in this maner eftir
that he be challenged. That is to say he sall hald his
chartaris and evidentis, that he hes of his tenandrie of
30 ff. in his awin handis, and schaw theme opynlie to his
over lord, to the courte and to the clerk Nocht deliverand
theme out of his handis, till he be sicker that they be
gevin to him agane, haill and feir as he delyvered theme
and uncopied incontinent but delay eftir there reiding
35 be red. Item the carter and evidentis beand red, and

again tane, gif he be demanded quhome of he haldis *the* said [tennandrie] and land and in quhat maner, he may say I hald it of the lord of A of B overlord thereof for sic service doand as is contened in the cartare (gif service be therein contened) the *quhilk* service I am 5 reddie to do and profferris it now, and gif the lord refuse to ressave sic service. Sayand that he or they ar na sic tennentis to him of the said tennandrie, because of tailze and aucht nocht to bruik it be ony kynd of ressone that *the* lord *can* schaw The tennent sall say 10 that he is nocht haldin to ansueir to na question tuiching the propirtie nor the richt of *the* said tennandrie of land be na procese 3it led, bot allanerlie to schaw his halding, and to do sic service as he *aucht* be his chartare, and that with othir force, he *aucht nocht* to 15 be led thereto, bot be authoritie of oure soverane lord the king and his brevis etc.

The sext Tytill Off Processus curiæ purpresture Contenand sex Chaptouris.

The lordis precept direct to his serjand.

20

Cap. *primus*.

A of B. lord and baron of C. To my serjand of the said baronie Greting. fforsamekill as I propone me to hald ane courte of purpresture in my landis of D the *quhilk* salbe haldin At E the tent day of Maij nixtocum 25 Quherefoir I charge the, that thow pas *witht* sufficient witnese to the Chemise of .E. and there thow *summond* ff. That he compeir befoir me the said day and place, To undergang and underly ane assyise of purprieson and usurpatioun With the perrell, that effeiris of law. as he 30 quha, or the quhilk purpriesis and usurpis aganist me that is overlord to him of the saidis landis of D: and do him to wit, that quhidder he *compeir* or *nocht* I will

proceid aganist him with assyse of purprisioun and
 usurpatioun as the law levis me. And this on nawyise
 thow leif undone: under all pane, that thow may tyne
 aganist me, and be thow there the said day and place
 5 with the recorde of thy *summonis* and thy witnese.
 Writtin under my seill. At N the first day of etc.

The execution of the precept. C. 2.

Then sall the serjand, eftir that his precept be cum to
 him pas to the Chemise of the land with sufficient
 10 witnese and mak sufficient *summonis* in this maner
 efter following. I N. serjand of the baronie of C. at
the bidding and *commandiment* of A. of B. *sum-*
moundis 3ou ff heir at the chemise this mononday the Fol. 181.
 first day of the moneth of *merche* The 3eir of god etc.
 15 To *compeir* befoir my said lord the tent day of *the*
 moneth of Maij nixt to cum in his courte To be haldin
 at D To undergang & underly ane assyse of purprisioun,
 and usurpatioun *witht* the perrell that effeiris of law, As
 3e *quhilk* purprysis & usurpis aganist my lord, that is
 20 3oure overlord of *the saidis* landis of .D. in the Eiring of
 his awin propir landis of N. or in the bigging that 3e
 have maid upoun theme and dois 3ou to wit that
 quhidder 3e compeir or nocht the saidis day and place
 my said lord will proceid aganist 3ow with ane assyse of
 25 purprisioun and purpresture als far as the law leifis him,
 And of this my *summonis* making I tak witnese of 3ow
 A.B.C.

The indorsation of the *summonis*. C. 3.

Then the serjand sall gar writ in paiper the recorde
 30 of *the* *summonis*, and his witnese mennis Names, and
 keip it to the nixt courte day in this maner. I .N.
 serjand of the baronie of C. at the bidding and

commandiment of my lord. A of B lord and baron of the said baronie past to *the* Chemise of the landis of D upoun the first day of *the* moneth of *merche* The 3eir of god j^m etc. And there I summoned .ff. To compeir befor my said lord his *over* lord of the landis of .D in 5 his courte to be haldin At .E. The tent day of the moneth of Maij, The 3eir of god foirsaid To undergang ane assyise of purprision and usurpatioun *witht* the perrell that effeiris of the law as he *quhilk* purprises aganist my said lord, that is overlord to him of his 10 saidis landis, and did him to wit that quhidder he compeired or nocht *the* saidis day and place My said lord wald *proceid* aganist him *witht* assyise of purprision and usurpation als far as *the* law leifis him, and of this *summonis* [making in maner foirsaid I tuik] 15 a,b,c. witnes.

The forme of the courte. Cap. 4.

Quhen the courte day *cummis*, the lord sall pas to *the* Chemise and gar fense the courte and call *the* soitis and thereftir he sall speir at the serjand gif he 20 summoned as he gaif him charge to do of befor, then sall the serjand say 3ea, then sall he charge the serjand to call him thryse over in this maner E appeir as 3e war *summoned* to this courte and undergang and underly ane assyise of purprisioun usurpatioun and 25 usurping aganist my lord A of B. that heir is, 3oure overlord of the landis of D. with the pertinentis. Then quhen he is called thryse over, there salbe chosin ane assyise of the best and wirthiest personis of the foure halfis about and gar theme sweir, Syne the lord sall gar 30 the serjand delyver *the* precept to the clerk to reid it, and quhen it is red, *the* serjand sall delyver the recorde of *the* *summonis* to the clerk and the witnese sall sweir the greit aith that they by war hard and saw for witnese war tane quhen N serjand *summoned* ff. in 35

forme and maner of *the* recorde and as his *summonis* propositis.

The clame and petitioun of the persewer.

Cap. 5.

5 Gif the defender exceptis nocht aganist the processe
then sall the lord or his foirspeiker say to the assyise in
this maner : To 3ou guidmen of assyise I say *that* ff.
purpris and usurpis aganist me his overlord in sa far as
he gart ear, till, or maw my landis of .D. Or bigged
10 upoun my landis of ff. or sic uthir landis perteing to
me in sic ane place. Quherefoir he hes foirfalted to me
all the landis he haldis of me for evir And this I put
on god and 3ou gif it be thus.

The dome pronounced be the dempster. Cap. 6. Fol. 182.

15 Eftir the assyse hes gevin there declaratioun The
dempster of the courte sall gif dome in this maner
following. This courte schawis for law, and I gif for
dome That .A. of B. lord of the baronie of .C. is cum to
the propirtie and possessioun of the landis of D with
20 *the pertinentis* Lyand within the baronie of .C. for the
foirfalt of ff. maid to the said lord in purpersion and
usurpation aganist him his overlord of the saidis landis
with the pertinentis In samekill as he earit *the* said
lord his propir landis of .E. or sic uthir landis pertening
25 to him in sic ane place, And this I gif for dome.

Ane uthir forme of Dome verdict or sentence,
Extracted furt*ht* of the register of King Robert
the thrid, the threttent 3eir of his regnne
The 3eir of god ane thowsand foure hundreth 1413,
threttene

30

Be it kend till all men be thir *present letteres*, That
we will of Strivilling, Gibbon of galbraith, Thome of

1413.

galbraith, Robert Colquhon, James of Dowglas, Johne Nobill, Johne Neper Johnne *the* Menzeis Duncan of Strivilling, Moreis makallon, ffynlaw bontine, Cesson of Newbolg, Convell of akinheid, Alexander Makannye, Donald Bean makalpin, Moreis of auchincloig and 5 Donald Convelson. wer intill assyise, befor *Schir* Alexander logan, Stewarte of the lennox sittand as judge at the courte of the erldome of the lennox haldin at Dounbannorie on lambes evin The 3eir of god j^m iij^e and threttene 3eiris Quhere that a Nobill lord and 10 a michtie *Schir* Duncan erle of lennox befor the said iudge maid Clame and following lauchfullie to Donald of the lennox the said day in the visaige of the foirsaid courte Sayand that wranguslie and aganist the lauch, that he had Manured and laboured his erd and land 15 of the Cathyre of Drumdas and Caron Castand his peittis, Mawand his Medowes, and Delfand his eard of the foirne~~m~~med landis, that wes Domed of befor to be in his handis, quhill that they wer derenzeid fra him as lauch wald, the foirsaid Donald beand present, 20 and heirand it till him maid be the foirsaid lord, quhill he denyed it. And then we the foirne~~m~~med assyise charged throw the foirsaid judge be the greit aith sworne, wes send out of courte lelelie to determin thereupoun be oure best domeing eftir the foirne~~m~~med 25 challanging maid be the foirsaid lord erle till the said Donald; and then thestir we the foirne~~m~~med assyse of ane assent bisselie examined, weill advised, fullielie counsalled and accorded be oure foirsaid aithis. That the foirsaid Donald had maid manure and purprision 30 upon his foirsaid lord erles eard and land befor ne~~m~~med in all poyntis that he maid him challenge of anent the foirsaid cause, befor the foirsaid iudge, the said day intill the said courte: and there we the foirne~~m~~med personis of *the* foirne~~m~~med assyse, saw and harde that 35 donald Johneston a soyttoure of *the* foirsaid courte, with *the* counsell and assent of all the soyttouris of it gaif

for dome. That all the landis that *the* said donald held Fol. 183.
of the said lord erle suld be his for evir ffor the wrangus
manuire maid in the said lord erlis land and eard as is
befoir sayd, and the said Donald himself to be in *the*
5 said lord erlis will, for the bruiking of his fame in that
case. And this to all that effeiris manefestlie we mak
it knawin that we war upoun the fairsaid assyse, and
harde and saw the procese led and domed betuix *the*
fairsaid lord erle and Donald as is befoir sayd. In
10 witnese of *the quhilk* thing We william of Strivilling
Thome of galbraith, Johne Neper, James of Dowglas
of ledchamrachie. Johne Nobill Johne the menzeis and
fynlaw bontine haif set to oure seillis for ws and for
thaim that wer with ws in the said assyse that had na
15 seillis of thair awin. At steid day and place fairsaid
with the seill of the said judge.

The authoure to the godlie and christiane
reideris.

Godlie and gentill redaris I have insert and registrat
20 thir sex proceses Immediatlie befoir writtin for fyve or
sex causis. 1.° Because the procese of falsing of Domes,
quhairunto sindrie actis of parliamentis is relative, be
now out of use, and reductionis of Decreitis and
sentances ar now used, sua that be tyme the procese of
25 falsing of Domes will be unknowin, there beand na
autentik register extant of the deductioun thair of forme
and maner of *the samin*. 2.° the proceses of perambu-
lation and division [of landis] with exceptionis contrare
the *samin*, beand bayt*ht* eftir ane forme and style *quhair of*
30 perambulation is almoist worne out of use, and *the uthir*
of divisioun nocht used, bot *the* proceses of cognitionis
and molestationis in place thereof, ethir be *letteres* direct
to the *schireff*; or ellis be *commissioun* of *the lordis* of
[*counsale* and] *sessioun* to *uthir iudges deligatt, conforme*
35 to *the act of parliament Jac. 6. parl. 11. act 42. Sua*

that in schorte tyme the *proceses* of perambulation and divisoun of landis will nocht be had in memorie, thair beand na autentik register extant theirow at *the* leist to be had for 3oure informatioun. 3.^o as to *the proces* betuix the lord and the tennent, anent the 5 dewitie of the ground, The *samin* is nocht now in use, nor na civile cause to pas be ane inqueist or assyse uthirwyse called ane jurie eftir the forme foirsaid heir set down, bot be uthir formes of procese now used, and speciallie anent kirk *annuellis withtin* burrowes and 10 reconissing of landis therefor be foure domes of propertie conforme to the act of parliament and burrow lawis, as I have mair particularlie sett down hereftir for 3oure instructioun [and bettir informatioun] fol. 262 / 263 / 4.^o as concerning the proses of schawing of 15 halding and purpresture. Or of the [processe of] disclamatioun of the richtious superiour, *quhil*kis 3e will fynd in the maiestie [Imprentted] now beand all out of use; (and the proceses of non-entrese eiectionis and cognitionis in place thereof) Bot experience hes teiched 20 the abuse of *the samin* to haif ingenered mony and sindrie actionis: ffor quha sa lykis now to trubill and molest his *nychtbour* Disclames his [richtious] superiour, and takis ane new infetment and halding of sum uthir superiour that hes lyttill or na *rycht* thairto, and includis 25 his *nychtbouris* nixt adjacent landis in his wrangus new infetment, *quhai*row small remeid is gottin, bot sindrie proceses resulting thairupoun, To the greit hurte and skaith of the liegis. 5.^o As tuiching thir proceses *quhil*kis ar out of use for 3oure bettir information I 30 have inserte the *samin*, that 3e may nocht onlie know the auld formes and stylis bot also how different and changeabill the *samin* and langage thereof is altered within sa schorte a space of 3eiris. 6.^o and last, That 3e may tak consideratioun of *the premissis* as 3e haif 35 occasion, or as *the samin* sall occur hereftir in 3our awin

[Nota]
deutro. c. 28.
v. 7.¹
cursed be he
that removes
his *nycht-*
bouris *mark*
or *marche*
stane etc. bot
this is mair,
and sua *the*
curse man be
greittare.&c.

¹ *Lege* c. 27. v. 17.

particularis, or *uthirwyise* as may best awaill 3ou in
 tyme *cuming*. I have writtin and set doun the *samin* Fol. 184.
 in the auld scottis langgaige Conforme to *the* orignall
 register in all poynttis, *quhilkis* I saw conferred and
 5 aggreand therewith hes left *the* *samin* in memorie to
the posteritie heireftir. Sua I rest.

3ouris A. B.

10 Heir endis the first buik of all civile, new, and
 auld, used proceses within the kingdome of
 Scotland.

And heireftir followis the secund buik of eccle
 siesticall erectionis & proceses etc.

[*The remainder of folio 184 blank.*]

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