

1776. November 30. DR JOHN MEMIS *against* The MANAGERS of the INFIRMARY at ABERDEEN.

IN making an English translation of the Latin charters of the Infirmary at Aberdeen, Joannes Memis, *medicinæ doctor*, was translated John Memis, doctor of medicine. Dr Memis contended that it should have been translated Dr John Memis, physician in Aberdeen; that it was translated doctor of medicine with a view of throwing contempt upon him, and that it had greatly hurt him in his business. He applied therefore to the Managers of the Infirmary to have the translation altered; which they refused to do, although, in another place of the charter, the words *duo Medicinæ Doctorum in Aberdonia* had been translated thus, two of the physicians in Aberdeen. Upon this refusal he brought an action before the Court, concluding to have the charter altered and reprinted with his proper designation of Physician, and for damages and costs of suit. On the other hand, the Managers of the Infirmary contended that this action was trifling and litigious. That Doctor of Medicine is a proper, just, and literal translation of the Latin *Doctor Medicinæ* in the Scotch idiom: That it is a title synonymous with Physician; and that there was no *animus injuriandi* against Dr Memis, which the defenders, when put upon their oath by the Doctor himself in the course of this cause, had solemnly denied; and, as to any damages following upon it, it is without a shadow of proof, and imaginary.

The Lords sustained the defences, assoilyied the defenders, and found Dr Memis liable in expenses of process. The expenses claimed were above £100; but the Lords, 21st December 1776, modified them to £40, and the expense of the extract.

That there was no strong *animus injuriandi* to hurt Dr Memis seemed admitted; at the same time it appeared a conduct rather peevish and uncivil in his brethren, and an intentional affront, to refuse to gratify the Doctor in this request. But the Lords thought that they did not meet to decide what was civil, but what was wrong. In this case there was no wrong; the translation was good, no damage had followed, or could follow upon it, and therefore the action was foolish and wrong-headed.

1773. June 25.

BAYNE *against* MACKENZIE.

BAYNE brought an action of damages against Mackenzie. The wrong alleged, was neglect in Mackenzie, a writer, to expedite a confirmation; while in the meantime the person to be confirmed died, and thereby the subject could not transmit. There was a *mora*; yet, as it was not *dolose*, nor greater than what often takes place among people of business, the Lords assoilyied Mackenzie, but gave no expenses.

See Kilkerran, p. 484; 11 *New Coll.*, No. 2.