

No 9.  
report to the  
Court before  
passing a bill.

Ordinary upon the bills may refuse to pass advocations, if he find cause; but that he ought to report all advocations before they be pass to the whole Lords.

*Fol. Dic. v. 1. p. 26. Dirleton, No 260. p. 126.*

1675. June 8.

KYLE against GRAY.

No 10.  
Advocation  
cannot be  
pass of fums  
under 200  
merks, for  
any reason of  
iniquity.

THIS day the LORDS found, That advocations for fums of money within 200 merks, could not be pass upon any reason of iniquity.

Some of the LORDS in the case foresaid were of opinion, That advocations should not pass, though the process had been for a sum above 200 merks; because litifcontestation had been made in the cause; and after litifcontestation there can be no iniquity but by a decret, which ought to be suspended without advocation.

*Castlehill, Reporter.*

*Fol. Dic. v. 1. p. 26. Dirleton, No 261. p. 126.*

1676. December 12.

MARSHALL against HOLMES.

No 11.  
An advoca-  
tion produced  
after decree  
pronounc-  
ed, but before  
it was reduc-  
ed into writ-  
ing, rendered  
the decree  
null, as being  
*spreto man-  
dato.*

AN advocation being produced, after the judge had decerned, but before he had cleared and dictated the minute of the decret; which he did upon the Bench, immediately after production of the advocation:

THE LORDS found the decret null, as being *spreto mandato*; but in respect of the circumstances, and that the judge had decerned before, as said is, they turned it in a libel.

*Thefaurer-depute, Reporter.*

*Gibson Clerk.*

*Fol. Dic. v. 1. p. 27. Dirleton, No 396. p. 195.*

\* \* \* Stair thus reports the same case:

CHRISTIAN HOLMES having obtained decret against John Marshall, before the Sheriff of Lanark; he suspends and raises reduction on this reason, that the decret is null, being *spreto mandato judicis* of the Lords, after an advocation produced judicially.—It was *answered, non relevat*, because the decret was pronounced before the advocation was produced.—It was *replied*, That by an instrument produced, taken judicially in the hands of the Clerk of Court, and subscribed by him, it is instructed, That the sheriff-depute, immediately after the calling of that cause, did only express generally, Decerns; and immediately after the advocation was produced, he did dictate the sentence to the clerk; so that before the judge was *functus officio*, by expressing the special tenor of the decret, the advocation being produced, the decret is simply null, as *spreto mandato*, and cannot be sustained, even as to the libel thereof, which is sometimes done by the Lords *ex gratia* in null decreets, but never in those that are *spreto mandato*.