

and water, and caused one having jurisdiction as the bailie or heritor of the bounds, apprise the scaith, and then offer it back to the owner on payment thereof. *Vide, L. 39, § 1. D. and L. 5tam C. ad legem Aquiliam*; see act 11, Parliament 1535, and Bartolus there cited.

Thir two decisions I read in the President's *Collection of Practicks*.  
*Advocates' MS. No. 632, § 5, folio 299.*

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1677. *July.*

## ANENT PRESCRIPTION.

IT was affirmed to me that the King's taxation, and Lords of Session's taxation in 1633, do not prescribe within the 40 years: at least that the ten years of the English usurpation must not be reckoned in that count; because they were then *non valentes agere, contra quos nulla currit præscriptio*. *Vide No. 631, Lindsay and Fraser, [30th July, 1677.]* There was two years, viz. from *February* 1659, till the end of 1660, that must be discounted in all prescriptions; because there was then no courts in Scotland: which is much to be attended in counting prescription, where it is but shortly past. *Advocates' MS. No. 632, § 6, folio 299.*

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1677. *August 1.*

## ANENT ADJUDICATIONS.

THE President caused the Lords call back for a decret of adjudication of some of my Lord Cathcart's lands; and stopped the signature of infestment, sought to be expedie thereon at Exchequer, though it was extracted ten days before; only because it was not inrolled, but called and decerned amongst the acts; whereas the new adjudications use all to be so called, unless where there is compearance for the debtor; in which case, conform to the act in 1672, he will get a day to prove the value of the lands, and to produce the writs; and if this were an informality, then 20 decreets of adjudication will fall. Yea, in this case the master of Cathcart had written a letter to the party, acknowledging the debt, and offering to take a course therewith. But he is the President's son-in-law. See of concussion, *supra, in July 1677, No. 592, Mistress Jean Gray contra Sir A. Primerose*. Anent the summary calling of adjudications, see *No. 453, supra, Nasmith and Kello, § 3, [February 1676.]* *Advocates' MS. No. 634, folio 299.*

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1677. *August 3.*

SIR ANDREW RAMSAY'S signature of the lands of Waughton, Abotshall, &c. upon his father's resignation was passed in Exchequer. But in regard there were sundry feu-duties owing for Linton, East-Forton, AuldCambus, Fast-Castle, &c.

and no discharge or *æque* made in Exchequer for them ; nor no *novo-damus* shewn, (and yet I hear they regard not a *novo-damus*, and though it be passed and subscribed at Court by his Majesty, they exact the preceding feu-duties ;) they would not give out his signature till these were satisfied ; and they might crave 39 years back.

*Advocates' MS. No. 635, § 1, folio 299.*

1677. *August 3.*

EWART, Provost of Dumfreis, *against* M'GUFFOCK of Alticray.

M'GUFFOCK of Alticray, presenting a signature, upon an adjudication of some lands belonging formerly to the Lord Kircudbright ; compearance was made for Mr William Ewart, Provost of Dumfreis, who stood infest in some of them ; and it was ALLEGED, no infestment could pass as to these, but they behoved to be expunged, because this signature was to the behoof of Sir David Dumbar of Baldune, and he had renounced the adjudication in so far as concerned these lands. Whereon Baldon being examined, denied the same.

*Advocates' MS. No. 635, § 2, folio 299.*

SUPRA, at number 500, and 501, in October 1676, I have made a small collection of law observations, I had dispersed up and down in other paper-books, and pointed at the places where they lie, that it may serve for a ready direction ; like the names affixed to the apothecaries' pigs and boxes. In prosecution of that method, I shall here shew where my extraneous law remarks, not contained in thir sheets, and may be called *extravagantes communes*, since that time, are, it being the space of a year. They are contained in a manuscript book, which begins with

The qualifications requisite in electing Commissioners to the Parliament. *2do*, If bills of exchange bear annual rent after accepted. *3tio*, Anent the link between disturbances in Church and State. *4to*, From Bouritius *de officio judicis*. *5to*, Some satire lines. *6to*, Anent arresting boats. *7mo*, Anent charters of lands in the Canongate. *8vo*, Anent Sinclair's Practiques, and Nicolsons's, and Durie's, and Colvill's. *9no*, A summary compend of my other law observations. *10mo*, From Skeen in *Regiam Majestatem et Leges Burgorum*. *11mo*, Anent suffocation of monstrous births. *12mo*, Anent burnt tenements. *13tio*, Anent the action flowing from an infestment of annual rent. *14to*, Anent the encroachments of Secret-Council and Exchequer, on the Session and criminal Court. *15to*, Anent women being witnesses. *16to*, Anent macers' qualifications, and the hours of the Lords' sitting. *17mo*, Anent a clause in a feu of some lands in Douglas. *18vo*, Anent the town of Edinburgh ; anent festival days ; the Lords' varying decisions ; sundry ridiculous things in our acts of Parliament ; a compend of Aberdeen's