

et prætextu officii judicem crimen committere is a greater crime than in another, says Bartolus. *Sub umbra juris scientiæ sæpe perniciose erratur*, l. 91, § 3, *D. de V. O.*

The libel concluded deprivations against the clerk, upon the 81st Act, Parl. 1540, imposing that penalty on clerks that refuse an extract of instruments taken in their hands. In this cause the Council was displeas'd with George Young; because, in purging the witnesses of partial counsel, it appear'd they had got money; whereas it is allow'd to give witnesses nothing till after they have deponed: and, though a party may lawfully bear his witnesses' expenses, yet here George had given some of them two dollars, which was thought exorbitant; albeit they had attend'd several Council days, and refus'd to come in without it; yet a caption could have forc'd them. See of witnesses' expenses, *June 1672.* *Vol. I. Page 36.*

ANENT the INIQUITY of INFERIOR JUDGES.

THE Lords have found, that where the iniquity and partiality of an inferior judge, or clerk, is very gross and palpable, so that it looks like *dolus* or *lata culpa*, that they will sustain action, and will find such a judge or clerk liable for repayment of the sum so unjustly decern'd. *Si dolo litem suam fecerit judex, tenetur parti læsæ in damnum et interesse*, l. ult. *de Extr. Cognit.* See Gayl. *de Arrestis Imper. c. 14, lib. 1, obs. 153, et lib. 2, obs. 76.* And I hear that the Lords lately found a sheriff liable to a debt for pronouncing an unjust decret. *Vide tit. Dig. de Mag. Conveniendis.*

The Lords have lately permitted a pursuer to advocate his own cause upon iniquity done him. See *July 1672, Bell.* *Vol. I. Page 37.*

1679. *January 25.* ROBERT CAMPBELL *against* LADY CARDROSS and her HUSBAND.

ROBERT Campbell, as standing infeft in 13 oxengates of land in Strabrock, from Mr Peter Oliphant, pursues a reduction, against Lady Cardross and her Husband, of their rights of the same. ALLEGED,—They would not take a day in the reduction to produce, because all parties having interest were not call'd, *viz.* her sister, who was married to Lord Kilmawers, and was the other heir-portioner. ANSWERED, *Imo*,—No necessity to call her, because offer'd to prove, by Lady Cardross's oath, her sister was denuded in her favours, and so her interest ceas'd; and she was the sole heir of tailyie to her brother Sir William. *2do*, Offer'd to call her to the next diet of the process, if needful.

The Lords, upon report, found, that of necessity she behov'd to be call'd. *Vol. I. Page 38.*