

Some ALLEGED these knocks were required in citations, but not in arrestments. It was ANSWERED,—They offered to prove a copy was left with his wife. Which (though the execution bore not,) the Lords sustained it as sufficient to maintain the arrestment, though it wanted the six knocks; since a citation given to one's wife is almost personal, and will very readily come to his knowledge.

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1679. *December 19.* ANENT the DESIGNATION of GLEBES.

I HEAR that the Lords found, that the relief which is due to an heritor, of whom the designation of a minister's glebe is taken, was only a personal obligation on the present heritors of that parish and their heirs, but would not affect and reach their singular successors in these lands. So that it is their interest immediately to pursue their action of relief, seeing this relief is not *debitum fundi*; for nothing is to be interpreted *debitum fundi* but what either an express law or uncontroverted practice hath made such. And it were against the freedom of commerce to make too many *debita fundi* for reaching singular successors, who can be certiorated thereof by searching no register for designation of glebes or the like.

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1679. *December 19.*

It was queried if a decret of transferring must be extracted before you be obliged to debate in the process transferred; or if the minute and signature, bearing that there is a decret pronounced, be sufficient, and will be warrant enough for proceeding in the principal cause. *In rigore juris* it should have been extracted: however, it was *casus judicis arbitrarius*, until the Lords of Session about this time, by their Act, ordained all decreets of transferring to be extracted, before they can proceed in the old cause; for the President's son, Mr James, is now a clerk, to whose advantage it is calculated.

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1680. *January 2.* ANENT SUMMONSES and PROCESSES.

I.—It was ALLEGED against a summons,—No process; because the second citation is given before the day of compearance in the first citation is elapsed: and thereupon he takes instruments: the pursuer takes up his second execution and mends the date of it, and offers to abide by it.

REPLIED,—That he might have amended it before calling, but he cannot be suffered to do it now after that it is quarrelled; but he ought to cite of new again for the second diet.

II.—A process is returned by an advocate, and two or three are marked *a partibus*; but all the time it is never seen by any advocate, and then it is of new enrolled. At the calling it is ALLEGED,—That it must be seen *in communi forma* before they can be obliged to debate, they not having seen it now these several years; and, if year and day expire, there are Acts of Sederunt appointing it should be given out again to be seen by the contrary party's advocate; and it is relevant to offer to prove, by the clerk's oath, that the *partibus* was not yearly marked, but only lately. See Act of *Regulat.*