

1670. January 26. WILSON *against* The TOWN of PERTH.

IN an advocacy raised at the instance of the Magistrates against Wilson, of an action raised against them before the sheriff of Perth, upon this reason, that the sheriff was not a competent judge, the town being sheriffs within themselves; the LORDS did advocate the cause, and found, that they themselves were only competent judges, seeing the magistrates were pursued, as representing the town, and not upon any personal obligation which might oblige them as private persons; notwithstanding it was *alleged*, that the sheriffship granted to the town, did not exempt the inhabitants from answering to the sheriff-court of the shire, when they were pursued by one that is not burghess, and if they were pursued before their own court, they would be both judge and party.

Fol. Dic. v. 1. p. 497. Gosford, MS. No 232. p. 93.

No 119.
The Lords advocated a cause, and found themselves the only judges competent, where magistrates of a burgh royal, which had a right of a sheriffship within itself, were pursued before the sheriff of the shire, upon a bond granted only as representing the town.

1681. December 15. BETHUN of Blebo *against* His TENANTS.

THE LORDS of Session found to be the only judges competent in removings by the *remedium extraordinarium*, against tacksmen who have years of their tack to run, and are in arrear a full year's rent, viz. that they should either find caution for bygones and in time coming, or else remove, notwithstanding of the hypothecation; and that sheriffs are not competent to judge in such removings, though they be competent to cognosce ordinary removings where there is no standing tack, as is provided by the act 39. Parl. 6. Queen Mary:

Fol. Dic. v. 1. p. 497. Harcarse, (SPUILZIE.) No 855. p. 243.

No 120.

* * See P. Falconer's and Sir P. Home's reports of this case, No 21. p. 7307.

SECT. IV.

Power of advocating Causes.—Power of advocating from one Court to another, where the Court of Session itself has no jurisdiction in the Cause.

1567. February 18. CUNINGHAME *against* DRUMQUHASSIE.

ANENT the action pursued by Agnes Cuninghame, one of the daughters and heirs of the umquhile Laird of Polmaise, against the Laird of Drumquhassie, a-

No 121.
The Lords have power to advocate.