

No 18.

Advocates bound to depone as to secrets of their clients, relative to the expification of trusts, and private fraudulent conveyances.

1684. *January.* Mr JAMES KEITH *against* Sir WILLIAM PURVES.

THE LORDS found, That though advocates are not bound to discover the secrets of their clients, concerning the point of right, they were yet obliged to depone in the expification of trusts, and private fraudulent conveyances; and therefore Sir George Lockhart, and some other advocates, were examined about their knowledge of a trust put in the person of Mr James Keith, by the Lord Marshal, in prejudice of Sir William Purvis; in the reduction and improbation of the execution of Sir William's apprising, at the instance of Mr James Keith, who had right to another apprising of the same subject. (*See* the particulars of the reduction here referred to, under *Quod ab initio virtuosum*, and under *Pactum illicitum*.)

Fel. Dic. v. 1. p. 26. Harcarfe, (ADVOCATE,) p. 4.

No 19.

An action to have an advocate deposed for lending his name in trust, in a matter under debate at law.

1684. *January.* TOLQUHON *against* THORES.

TOLQUHON having raised a summons against Sir David Thores, advocate, to hear and see, &c. that he ought to be deposed, conform to act 216, Parl. 14. Ja. VI. for having lent his name in trust for one Forbes, to a right under debate at law.—It was *alleged* for the defender, That he is not in the case of the act of Parliament; because the right was not only granted to him in trust upon back-bond, but also he declared, at the first calling of the process in his name, that it was a mere trust; and so the reason of the act ceased.

This debate was laid aside at the pursuer's desire, till the event of a count and reckoning. (*See* COMPETENT.)

Harcarfe, (ADVOCATE,) p. 4.

No 20.

An instance of the duty of an advocate to his client, continuing after the client's death, without any new authority.

1684. *January 16.* WILSON *against* FOULIS of Ratho.

THOMAS WILSON bailie in Leith, and Margaret Spence his spouse, against John Foulis now of Ratho, and Mr Thomas Learmont advocate, being reported by Saline; THE LORDS found, That Mr Thomas Learmont having been advocate for the deceased Ratho, against whom the decret was put up before his decease, the said decret being now quarrelled as unwarrantably extracted, that Mr Thomas has interest to propone objections against the said decret, in order to the rectification thereof, as procurator for the deceased Ratho, as if the same had been proponed before extracting; though this was to make him an advocate without a client, which are *correlata*; and to cause his mandate continue, *mortuo mandatore*, contrary to the principles of law; and to hinder apparent heirs to state themselves the *veri et legitimi contradictores* to their predecessors creditors. But the LORDS thought it a part of an advocate's faithfulness and duty to carry on the