

No 28.
such lodgings
is not com-
monly given
sooner than 20
days after the
term.

judge;—the LORDS nevertheless sustained the reason, and suspended the charges upon the contract against them *simpliciter*.

Act. *Hart.*

Alt. ———.

Clerk, *Hay.*

Fol. Dic. v. 1. p. 204. Durie, p. 687.

No 29.

Altho', by the
general cus-
tom of Scot-
land, sen-
tence-money
belonged to
the judge, yet
the Lords
found, that
the parti-
cular custom
of a particu-
lar place
derogated
from the ge-
neral; and
that being
proven, they
preferred the
clerk.

1684. December 17. CATHCART *against* IRVINE.

JAMES CATHCART of Carbiston, clerk of the Canongate, pursues Irvine his depute for the sentence-silver. *Alleged*, That by our law, and the custom of all courts, the sentence-money belongs to the judge, and not to the clerk. *Answered*, By a special custom in Edinburgh and the Canongate, it was a perquisite and a pendicle of the clerk's office; and it is but within these twelve months that the Magistrates of Edinburgh have, by their act, taken it away from the clerks, and annexed it to the bailie's office. 'THE LORDS found the particular custom derogated from the general; and that being proven, they preferred the clerk.'

Fol. Dic. v. 1. p. 204. Fountainball, v. 1. p. 322.

1782. March 10.

MARGESTON *against* The PROCURATOR FISCAL and CLERK of the High Court of Admiralty.

No 30.

A practice of
giving the of-
ficers of the
admiral court
more than the
ordinary dues
of court, in
cases of prize,
discounte-
nanced.

MARGESTON having captured an American vessel, obtained sentence condemning the same as lawful prize, in the High Court of Admiralty; and demanded an extract of this sentence, upon payment of the usual dues.

The Judge-Admiral found, 'That as the prize was of considerable value, the captors were liable to the deputy clerk of court, for behoof of all concerned, in the sum of L. 40 Sterling; and that over and above the the sums paid as the dues of extract.'

In an advocation of this judgment, the LORDS

Found, 'That the officers in the Court of Admiralty, in questions of prize, were entitled to no more than the ordinary dues of court.'

Reporter, *Lord Kennet.*

Act. *Henry Erskine.*

Alt. *Monro.*

Fol. Dic. v. 3. p. 165. Fac. Col. No 43. p. 70.

See APPENDIX.