

no right to them; *2do*, I got them not *qua* Advocate, but *tanquam quilibet* from Mr Alexander Spottiswood, and so must be pursued by a summons *via ordinaria*.

—THE LORDS refused to cause him depone summarily *hoc ordine*, though a member of the Court. But Fairholm was only seeking a judicial transumpt of them.

Fol. Dic. v. 1. p. 152. Fountainball, v. 1. p. 467.

1695. December 3.

WILLIAM MORISON of Prestongrange against Mr ROBERT BENNET Advocate; and JOHN INGLIS Writer to the Signet, and Others.

WILLIAM MORISON of Prestongrange represented by petition, that he being nearest of kin to the Lady Dirleton his sister, finds that her cabinets, during the time of her sickness, have been broke open, and her papers abstracted; and he has reason to suspect Mr Robert Bennet advocate, John Inglis writer to the signet, and others; and therefore craved they may be examined summarily, as being members of the College of Justice. Some thought this being so unwarrantable an act, the Lords ought to enquire therein, especially if done by any of their members: Others considered the petitioner had as yet no title in his person, not so much as a decreet-dative with a licence, and that this malversation charged on them was not committed by them in their office and trust as members of the College of Justice, but wholly extrinsic thereto, and being defamatory as accessory to theft; therefore they refused to take it *in hoc ordine*, but left him to his ordinary course by exhibition.

On the same occasion, the Lady Harden likewise gave in a bill, *alleging* many of her father Dirleton's papers were beside his relict, and in her custody at the time of her death; therefore craving she might be allowed either to be present, or to have one for her, at the opening and inspecting the cabinets, and to have an inventory of the writs.—THE LORDS thought, if this were allowed, there should never any person die, but relations or others, on pretended interests, would always crave to be present at the viewing and inventorying their papers, which might be a dangerous preparative, and propale men's charter chests; therefore they refused this bill. There is a late act of Sederunt, 23d February 1692, anent inspecting writs, where people are *moribundi*, to see if there be a testament; but that mainly concerned minors, and was made on occasion of the malversations used in the tutory of Ker of Moriston.

Fol. Dic. v. 1. p. 152. Fountainball, v. 1. p. 682.

No 9.

quibet.
Found incompetent to demand exhibition summarily.

No 10.

An advocate and writer were accused of abstracting the papers of a defunct. Found, that for such an accusation they could be prosecuted only *tanquam quilibet*.