

No 22.

ed, and the possession not being clear, who had first put in Adam Scott in 1661 to be door-keeper; and it appearing that John Bannantyne had served a year before the Faculty settled a pension of 200 merks on him in 1676; therefore the question arose, who should officiate *medio tempore* till the right and possession were cleared; and it carried that the advocates nomination should take place in the mean time. Some moved that neither of them had right; and that the house being the King's, and the Lords being his delegates, they had the sole right and power of placing all door-keepers within the Parliament-house; and that any possession, which either the Faculty of Advocates or Macers had, by their gift or act of Parliament 1537, as *officarii, clavigeri*, or serjeants *armorum*, was by the Lords tolerance and permission. But this would have been as partial as that decision of the Romans, where two neighbouring republics having a difference about a piece of ground, and referring it to the Senate of Rome, they determined the debatable land to belong to neither, but only to themselves.

Fount. v. 1. p. 621.

1708. July 31.

ELIZABETH BUTLER and Lieutenant JOHN GORDON, her Husband, for his Interest,
against ALEXANDER RAGG.

No 23.

An advocate may demand to see the process, for a defender out of the kingdom, without a mandate, though he cannot give in defences.

IN a pointing of the ground, at the instance of Elizabeth Butler and her husband, against Alexander Ragg, as heir to Margaret Williamson, an advocate having appeared, and craved to see the process for the defender, who was out of the kingdom: It was *alleged* for the pursuers, That no advocate's compareance, for a person out of the kingdom, could be sustained without a special mandate, as was decided, February 3, 1681, ——— against Stuart of Archattan, No 17. *supra*.

Answered for the defender: Though an advocate would not be allowed, without a special mandate, to plead for one out of the kingdom, he may, by the privilege of his gown, crave to see any process against such an one, that, in the mean time, before it come in by the course of the roll, he may acquaint his friend abroad, and get a mandate, with instructions about what defences should be made. The cited decision is alien to the point; for an advocate's craving there to have one out of the kingdom reponed, against a decree in absence, could not be sustained, because it resolved into a defence.

THE LORDS found, That an advocate might, by the warrant of his gown, be allowed to see the process for the defender; though he could not be allowed to plead for him and make defences, without a special mandate.

Fol. Dic. v. 1. p. 25. Forbes, p. 277.