

1764. CAPTAIN JAMES CUNNINGHAM *against* DAVID BLAIR, Minister at Brechin.

CAPTAIN Cunningham brought an action of injury, defamation, and damages against Mr David Blair, minister at Brechin, charging, that Mr Blair, having conceived a most groundless jealousy of his wife, did, to sundry persons, at sundry times and places, falsely charge him as an adulterer. Mr Blair's defences were three:—1st, The incompetency of the Court to injuries merely verbal, *prima instantia*; 2dly, He stated defences *in causa*; 3dly, He pleaded *compensatio*, in regard of a publication against him by Captain Cunningham, entitled *Tartuffe*, &c. The Court, 1764, sustained the defence, and assoilyied, and found expenses due. The action was sustained as competent before this Court, but the defence was sustained also.

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DEPUTE ADMIRAL OF CLYDE.

1776. June 14. BEUGO and BRYCE *against* M'CLERY.

IN an action of damages for neglect of commission in trade, skins from Ireland, at the instance of Beugo and Bryce, tanners in Glasgow, against MacClery, residenter there, before the Depute Admiral of Clyde; the pursuer obtained decret. The defender suspended, and pleaded incompetency. The Lords, 21st December 1775, sustained the reason of suspension of incompetency. Practice was pleaded, and also a decision, *Crosbie against Corbet*, 25th February 1741, observed by Kilkerran, p. 300. But the Lords, 14th June 1776, adhered. They held to the decision, *July 1768, Haig, Daes, and Company against Campbell*.

In this case, also, the Lords repelled the defence of prorogation of the Admiral's jurisdiction. But, in respect that the objection of incompetency had not been pleaded by the suspender in the inferior court, they found him liable in the chargers' expenses incurred in that court.

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LYON-COURT.

1776. December 20. PROCURATOR-FISCAL of the LYON-COURT *against* MURRAY of TOUCHADAM.

A SUMMONS before the Lyon Court having been brought at the instance of Procurator-Fiscal *against* Murray of Touchadam, concluding for payment of the statutory penalty for wearing arms though not matriculated, and for confiscation of the moveables upon which they were engraved; the Lyon Court