

1787. *June 28.*SIR WILLIAM ERSKINE *against* ROBERT and HENRY DRUMMOND.

No 16.

In an action, in which the nephews by affinity of the Lord President were defenders, his Lordship declined judging. The Court unanimously repelled the declination, and ordered their determination to be marked in the books of Sederunt.

In the action depending between these parties, the Lord President suggested a doubt, how far he was at liberty to vote, on account of his connection with Mr Henry Drummond, who was married to his brother's daughter.

This declinator was unanimously repelled, and the determination was ordered to be marked in the books of Sederunt.

The statute 1594. c. 212. prohibited judges from voting where their father, or brother, or son, was a party. By act 1681, c. 13. this prohibition was extended to all relations in the first degree, whether by consanguinity or affinity; and it was further provided, 'That no judge should sit or vote in any cause where he is uncle or nephew to the pursuer or defender.' But as the latter part of the act did not, like the former, particularly exclude uncles or nephews by affinity, it had been found, That a judge might vote in the cause of one who was married to his niece, unless where the niece was the proper party, and the husband only called for his interest; 31st January 1712, Calder *contra* Ogilvie, No 12. p. 197.

Nota, About the same period, Lord Alva refused to decide as an Ordinary, in a question in which Mr Carruthers of Holmains was a party. This gentleman was his nephew by affinity; and his daughter was married to his Lordship's son. But the Court altered the judgment, and remitted the cause to the Lord Ordinary.

C.

*Fol. Dic. v. 3. p. 135. Fac. Col. No 337. p. 518.*1788. *January 29.*

THE LORD PROVOST and MAGISTRATES of EDINBURGH, *against* THE FACULTY of ADVOCATES, and the SOCIETY of WRITERS to the SIGNET, in behalf of the COLLEGE of JUSTICE.

No 17.

The College of Justice found exempted from the payment of poor's money, and other taxations imposed by the Magistrates of Edinburgh.

THE COLLEGE of JUSTICE was instituted at first *anno* 1532, in the minority of James V. and during the regency of the Duke of Albany. For the purpose of obtaining a fund for its establishment, not less than from reverence to the Holy See, the government of Scotland had recourse to the authority of the Roman Pontiff; and Bulls were issued by Clement VII. and by his successor Paul III. ratifying the institution, and allotting for its support a portion of the revenues of the church. An exemption from taxes was likewise in the number of its destined advantages. The letters patent issued by the government, which were confirmed by the sanction of the last mentioned Pope, declare an immunity 'ab omni decima contributione, collecta, exactione, oneribusque ordinariis et extraordinariis.'