

1680. *July 28.* MEIKLE *against* MACKIE of DOULACH.

IN a suspension, Meikle against Mackie of Doulach, the Lords ordained, even in suspensions where reasons were referred to the charger's oath, that acts be extracted before they depone; unless they were present at the bar the time of the debating of the cause; though it be ordinary to take their oath without extracting.

*Vol. I. Page 111.*

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1680. *July 28.* WATSON *against* LORIMER, and FORBES *against* BOYD.

THE Lords, in two several actions, *viz.* betwixt Watson and Lorimer, and betwixt Mr Thomas Forbes, advocate, and one Boyd, refused to receive in bills complaining upon acts as unwarrantably extracted; but referred them to a reduction thereof. See the act of Sederunt 1679.

*Vol. I. Page 111.*

#### ANENT NOTARIES and the CLERKS of SESSION.

There was likewise an Act of Sederunt made anent Notaries; and a motion that the clerks of Session should all be admitted notaries: which was thought a disparagement, seeing they, *in actibus officii*, are more trusted and credited than notaries, and in extrajudicial matters they will not negotiate as notaries. This was moved to bring in some money to Laurance Oliphant, now clerk to the notaries, and to the register, his constituent.

*Vol. I. Page 111.*

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1680.

JAMES ALLAN *against* AGNES KER.

*February 11.*—IN the competition for maills and duties, betwixt James Allan, writer to the signet, and Agnes Ker; Allan propones improbation by way of exception against Agnes her general charge to enter heir, whereon her adjudication proceeded, in respect the same had been cutted, and likewise Mr John Hay's name had been inserted in it. When she came to abide at it, the Lords, upon a report, found it sufficient that she abode at the said charge, in so far as concerned herself, and not in so far as related to the said Mr John Hay. See *12th Dec. 1679, Robertson.*

*Vol. I. Page 84.*

*July 9.*—IN James Allan's improbation of Agnes Ker's adjudication, (11th Feb. 1680;) ALLEGED,—Her assignation to one of the bonds whereon the adjudication is led, is posterior to her charge against the heir of Stevenson the debtor, to enter; which is a nullity. ANSWERED,—She is cautioner in that bond, and paid it, and so she was creditrix even for that sum by the clause of relief, at the time of her charge to enter heir; which is sufficient to sustain it.

This being reported, the Lords sustained Agnes Ker's adjudication so far as to come in *pari passu* with James Allan, as being led within year and day of his, (though in effect they were both obtained and infest in one day, but in regard of the defect foresaid quarrelled in her's they gave James Allan's the pri-