

proved by the witnesses to the execution: because Delivery of a copy being in effect the Charge is a necessary solemnity when Execution is made and the whole execution would be null for want of Registration de facto tempore, so it is for want of Registration of any essential parts: unless it were proved by oath of the Keeper of the Records, that the execution was so Margined when presented to be Registered, and that the Margin was omitted out of the Record thro' bid of an Inhibitor that the Register Execution those of all the parties dwelling houses, did not bear that the Knobs were given, was not allowed to be supplied by a New Execution produced under the hand of the said Mesenger viz November, 1680 Key contra d'g Ballegermo. Nor by offering to prove that the Knobs were truly given.

If the proper inferior Jurisdiction where to be executed ought to be Executed or Registered, be a Sheriff, or Clerk, or any having no known head burgh or publick Register, the Diligence of Execution and Registration may be executed at the head burgh and Register of the shire viz. Dec. 11 January 1677 Scot. contra Dalmahoy 12 January 1679 Scot. contra Boyd 12 June 1674 Murray contra Strato.

Where a Mesenger makes houses in the Execution of his office, viz. By Bonding in warrantably, or in goods, or ruin, his Employer who adduced him to do with care to a Spinzie, as well as the Mesengers and the Clerk may be proved by the oath of the Mesenger to be made Employed by him in the Execution of such Diligence, but without be the force, from his giving the precept of presenting to the Mesenger, and the Mesengers Execution might be legal. Warrant 8 January 1663 Murray contra Fountler.

Having thus far Explained the Constitution of the College of Justice, and described the persons of whom it is immediately composed, and those to be added, and subjoined to it, I shall here by way of Appendix find first who are Members of the College of Justice, and then in the next place set forth the privileges belonging to these Members, and the Clerks that are upon them, which hath been partially pointed out

in the proper places.

Appendix

The Members of the College of Justice are the Lord of Session, Divocatus, & Clerks of Session, Clerks of the Bills, Writers to the Signet, the Deputes of the Clerks of Session who serve in the Outer house, and the Deputes for the Registrations being one in each Clerk's office, the three Deputes of the Clerks of the Bills, the Clerks of the Exchequer, the Deputes of the Clerks of the Admiralty, their Deputes, and two Clerks of the Writers to the prison, and the Deputes, the Clerks to the General Register of Session and the Writers, the Clerks of the Session, the Keeper of the Minute book, the Keeper of the Rolls of Inner and Outer House, 23 Feb. 1687 College of Justice contra Town of Edinburgh.

In order to describe the privileges of members of the College of Justice it is to be noted that the act of them have been formerly transmitted and printed, yet they are not all vested with the same or with equal privileges. For some privileges are peculiar to the Clerks of Session, others are common to the Divocatus, or the Clerk of the Session, others belong in common to the Divocatus principal Clerk, of the Session and writers to the Signet, or to the Divocatus and writers to the Signet.

The Distinctions being already set forth at large. Vid. supra pag. 1749 & 1751.

The Divocatus are exempted from being cited to pay superior officers. No person in Scotland can be a Baron of Exchequer, except he hath been an Advocate five Years and continued to 126. Advocates may plead before all Courts whether Sovereign or inferior, and are preferred by their Tenure to have a warrant from any persons within Scotland they appear for, without necessity to produce a Mandate.

All Clerks of Session the Notaries by virtue of their office, and none of them can be Declined in process before the Court. No Man is qualified to be an Ordinary Lord of Session, unless he hath served five Years as an Advocate or a principal Clerk of the Session, or ten Years as a Writer to the Signet, and hath been admitted upon trials in the Civil Court five Years before he be a Clerk, Article 19 of the Union.

No person can be a principal Clerk in the Inner Court.