

1663. *December 9.* NEILL MACNEILL of Dallilougart *against* COLIN CAMPBELL of Artenay, JOHN CAMPBELL of Artarich, &c.

NEILL MACNEILL of Dallilougart, serves and retours himself, in 1662, heir to his goodsire; then pursues Colin Campbell of Artenay, John Campbell of Artarich, and others, for exhibition and delivery to him of some writs, rights, evidents, securities, infestments, and charters of his lands, granted by the Earls of Argyle to his said goodsire, or any of his predecessors, of the said lands; (here the writs are deduced.) The defenders's procurators take a day to produce their clients, for giving of their oaths anent the points of the summons, and their having the said writs; which they failyieing to do, the term was circumduced against them, and they holden as confessed, and so decerned to exhibit and deliver the same to the pursuer, to be used by him as his own proper writs and evidents.

*Act.* Sir George Lockart, and Mr. Jo. Harper. *Alt.* Mr. Robert Sinclair, and George Mackeinzie. *Signet MS. No. 29, folio 10.*

1663. *December 10.* FRANCIS ARNEILL *against* JO. KER.

FRANCIS ARNEILL, merchant in Edinburgh, one of the owners of the good ship called Peter of Prestonpans, inputs and constitutes Jo. Ker, in Pans, their skipper and master thereof, to carry over in it some soldiers to Hamburg. At Leith, he (Arneill) buys 2000 weight of white biscuit for L.220 Scots; 500 lbs. weight of butter, L.135; 5 tons of drinking beer, with cask, L.150; 2 barrels of beef, L.26; 2 barrels of Lews herring, L.24; 104 lbs. weight of tobacco, L.52; 3 bolls oat meal, L.15; 22 pints of strong waters, L.24; amounting in all to L.546; and puts it therein. *In anno*, 1656, (which was the time of Cromwell's war with the Hollanders,) this ship, coming back from Hamburg, is taken by Captain Adrian Coats, and sold by him to Robert Fyfe and Jo. Delang, indwellers in Stravanger, and David Davidstone, in Copperwick, in Norway. Jo. Ker, skipper, coming home, by his ticket grants all these provisions to have been undisposed of, in the said ship (the 22 pints of strong waters only excepted,) even at their coming from Hamburg, and of their taking; and binds and obliges him, betwixt the date of thir presents and August 1658, to procure and purchase testificates under the hand of the said Captain Adrian, or his lieutenant or skipper, or some inferior officer of the said ship, or under the hands of those above mentioned that bought it, that the said victual and goods were in the said ship the time of her taking; or else, in case of failyie, to refund to the said Francis the prices mentioned in the particular account above written. This the skipper failyied to do: whereupon the merchant pursues him for to make payment to him of the prices of the said goods, conform to his ticket.

ALLEGED for the defender,—No process can be granted at this pursuer's instance, against the defender, for the 22 pints of strong waters, because the defender's bond or ticket libelled upon does not acknowledge the same.