

1669. *January 8.* The EARL of ARGILE *against* His VASSALS.

THE Earl of Argile, upon the gift of his father's forefaulture, pursuing an im-  
probation against his vassals, who did ALLEGE, That his infetment was qualified,  
in so far as it should give him preference for £15,000, to be regulated by a com-  
mission granted for that effect; and so gave him no right to the superiorities, the  
King not having absolutely dispoed the same:

The Lords did refuse certification, until they should acquaint the King, and  
know his pleasure anent the extent of the said right.

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1669. *January 8.* The EARL of ARGILE *against* MACNAUGHTON.

IN a removing, pursued at the Earl of Argile's instance against Macnaughton,  
upon the said right of forefaulture, and offering to prove quinquennial possession,  
immediately before the forefaulture, which, by the Act of Parliament 1584, is  
declared to be a sufficient title;—it being ALLEGED for the defender, That he  
had a confirmation from the King; and offered to prove that he was in possession  
above five years immediately preceding the forefaulture;—the question being,  
who should be preferred to the probation:

The Lords, before answer, ordained the defender to produce his confirmation;  
but withal declared, that, it being produced, they would prefer the defender to  
the probation.

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1669. *January 8.* HENRY STEWART of BEATH *against* MARY BRUCE and Her  
HUSBAND.

HENRY Stewart of Beath, pursuing Mary Bruce, his mother, and her second  
husband, for his interest, upon a bond granted by her and the said Henry, the  
pursuer's good-dame, whereby each of them were obliged to pay 300 merks du-  
ring her lifetime; and, in case of any of their deceases, to pay the whole 600  
merks; which, in respect of the good-dame's decease, the said Mary was pursued  
for:

It was ALLEGED, That the bond being granted, not for an aliment, but for  
payment of the said Henry's debts to the creditors, that he, having renounced  
to be heir to his father, and so being liable personally to the creditors, he could  
not seek payment, it being *causa data causa non secuta*.

The Lords repelled the allegiance, and found, That the debt due to the cre-  
ditors was only the impulsive cause; but the obligatory part being simple, with-  
out any condition, and the persons bound being liferenters of the pursuer's  
whole estate, the bond was in effect for aliment, the granters not being concern-  
ed in the payment of the creditors; but found, that the mother was not person-  
ally liable, but that the sum was due out of the first and readiest of the estate,  
the bond being so conceived.

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