

of the invasion, and that the assaulting was upon a sudden occasion and misdemeanour, so that he could not be thought accessory thereto; and for the ratihibition by imprisonment, that it was only until he should keep a regality court, like as the first lawful day he did liberate the person wounded, and gave sentence against the defender.

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1672. February 20. GEORGE SHAW of SAUCHIE against The LAIRD of CLACKMANNAN.

GEORGE Shaw, apparent heir of Sauchie, having pursued the Laird of Clackmannan for an annualrent of 3000 merks yearly, since the date of a missive letter, written by Clackmannan *in anno* —; as likewise for granting him a reversion of his land estate, worth 40 chalders of victual, and of his coal rent, worth £10,000 yearly, upon this ground,—That Clackmannan, and other friends, in the foresaid missive letter, had declared that they were willing to infest the pursuer and his wife in the said annuity, and that his estate was worth so much of yearly rent;—it was ALLEGED for the defender, That the letter was not obligatory, because it was only written, at the pursuer's desire, to Mr Mungo Murray, minister in England, of purpose to induce him to give a good portion with his only daughter, whom the pursuer had married; and the letter was qualified with a provision, in case he should give a suitable meeting, considering his interest in the parties. But so it is, That he was so far from giving any meeting, that he did disinherit his daughter, and disposed all his estate, which before he had provided to her, in favours of Auchtertyre.

It was REPLIED, That the said missive letter, as to any provision of his wife, being qualified, as said is, albeit it was not obligatory in her favours, yet, as to the pursuer's interest, which was distinct,—*viz.* that he might have an annuity of 3000 merks until count and reckoning was made; as likewise a reversion, bearing, that the defender being satisfied of his debts and engagements, if his intromission with an estate of the foresaid value did not amount thereto; and that being satisfied, he should dispose an estate worth 40 chalders of victual, and £10,000 of yearly rent,—the letter was obligatory.

The Lords did find, That, the letter being written by the pursuer's friends, not to himself, but to his father-in-law, to induce him to do a favour to the pursuer, and that upon a special provision, which never took effect, it was not at all obligatory as to any thing therein contained against Clackmannan; but reserved to the pursuer to call Clackmannan to account for his intromission, according to the true rent of the estate, that, being satisfied of his engagements, he might dispose the same.

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1672. February 23. MR STREET, Merchant in London, and JACKSON, against JAMES MASSON.

IN a reduction and declarator, at the instance of the said Mr Street and