

1678. *January.* ANENT DONATARS TO ESCHEATS.

A DONATAR to an escheat having given a back-bond and entered into possession, is pursued by second donatars, to count and reckon, as being paid by intromission; at least might have intromitted with as much: the question is, if he can be countable for ought and should have intromitted, as a first appriser is to a second.

It seems reasonable he condescend upon some obstacle and impediment that hindered him from possessing; for the gift above his own payment is but a trust,—it is *mandatum partim causa mandatarii, partim causa alterius*, viz. of the other creditors, &c. See Dury, 15th December 1626, *Donatar to the Laird of Foulis* his escheat. *Advocates' MS. No. 703, folio 314.*

1678. *January 11.* RELICT OF JOHN INGLIS OF ELVINGSTON *against* MR JAMES ELEIS OF STANHOPMILNES.

IN a competition between the Relict of John Inglis of Elvingston and Mr James Eleis of Stanhopmilnes, for the gift of the said Elvingston's escheat, the Lords of Exchequer preferred the said Relict to the gift, *qua* creditrix on her contract of marriage; notwithstanding Stanhopmilnes sought it on his own horn-ing, and was the first discoverer of the casualty to the King's Exchequer; because he seemed to be sufficiently secured for his debt *aliunde*, by an infestment; and he did not offer to renounce his infestment.

*Advocates' MS. No. 705, folio 315.*

1678. *January 11.* ANENT CASTLE-WARDS.

AT Exchequer, Sir John Nisbet was found liable in £4 Scots yearly, as the castle-ward-duty payable for the Castle of Dirleton, and contained in the Chekker rolls. There were only six shires towards the south, and bordering on England, that had these castle-wards.

Dirleton ALLEGED,—These lands, by Gowrie's forfaulture, being annexed to the King's crown, and thereafter given out to the Earl of Kelly free, and without mention of any such duty, it was thereby discharged. Which defence the Lords repelled. *Advocates' MS. No. 706, folio 315.*

1678. *January 12.* The TOWN of HAMILTON *against* ROBERT HENDERSONE.

IN the mutual reductions and declarator between the Town of Hamilton and Robert Hendersone,

*Imo*, Offered to prove, by the writer's witnesses and trysters, that the sum was blank at the subscribing; which being granted, then by the parties in