

1681. *February 17.* STEWART *against* ———.

IN the case of one Stewart and ———, the Lords ordained this point to be further heard in the Inner-House: Where forty years' prescription is objected against a comprising, and this interruption is condescended on, that, after the comprising, there was arrestment used on the letters of horning, and an inhibition served. ANSWERED,—All this was only done by virtue of the personal obligation in the bond to pay, and was noways relative to the comprising, nor done upon it. For it was doubted if this was a sufficient interruption.

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1681. *February 17.* GRAY of SKIBO *against* COLIN ROBERTSON of KINDIES.

See the prior parts of the report of this case *supra*, page 268; and Dictionary, page 6763.

IN Colin Robertson's and Skibo's affair, (14th July 1680,) the Lords finding one of the witnesses was, by deforcement, rescued from the messenger, and the other put out of the way, they renewed the commission for reëxamining them; though they had already clearly, upon oath, once improven the bond, and denied their subscriptions; because there was ground to think of them, (as of Broughton's instrumentary witnesses,) that they had prevaricated.

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1681. *February 23.* The DAUGHTERS of JAMES HAMILTON of MONKTONHALL *against* ——— HAMILTON, Lady Saughtonhall, and JAMES BAIRD, her Husband.

THE daughters of James Hamilton of Monktonhall pursue their eldest sister, the Lady Saughtonhall, and James Baird, her husband, by a declarator that the estate was devolved to them; because their father, by a clause irritant in his disposition, had provided, if she married without the consent of the friends he nominated, she should lose his estate. *Ita est*, she did not require their consent.

This being reported to the Lords, they found the declarator relevant, and the irritancy incurred, the pursuers always proving that it was intimated and made known to her before her marriage.

I think, albeit she was bound to ask their consent, yet she would not have been obliged to have followed it. *Vide 13th February 1680, Buchanan.*

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1681. *February 23.* The COLLEGE of EDINBURGH *against* SIR ROBERT HEPBURN.

THE College of Edinburgh having charged Sir Robert Hepburn of Keith, and other heritors of Humbie parish, upon the Act of Privy Council, for their vacant stipend; the Lords, on report, found the patron *jure communi* had right,