1682. JOHN TROTTER and BARBARA YOUNG, his Mother, *against* ROBERT TROTTER, his Uncle and Tutor.

March 24.—THE Lords ordain both the processes of exhibition, and that for removing the tutor as suspect, to be summarily discussed without enrolling; that the minor's effects might not be embezzled nor prejudged *medio tempore* by this long ensuing vacancy. See the *29th* and *30th March* 1682.

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March 29.—The Lords, on Castlehill's report, found they had power summarily to discuss such an *actio suspecti tutoris* without enrolling, notwithstanding that, by the first article of the regulations 1672, all privileges are discharged, except as to the King's own proper causes. Likeas, they found the mother had interest, (though debarred from her children's tutory, by her husband's appointment,) *postulare suspectum tutorem*, seeing it was *actio popularis*, in so far as any of the blood relations may pursue it. *Vide infra*, *30th March*.

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March 30.—In the case Trotter against Trotter, (mentioned 29th current;) the Lords again, on Castlehill's report, found there is ground for removing the tutor from his office, because he had not made up inventaries conform to the Act of Parliament 1672, (though he was framing them, and it was not yet a year since his entry.) But declare, if the tutor will find sufficient caution, or get sufficient persons one or more to join with him in the office of tutory, before the extracting of the decreet, at the sight of the reporter, they allow him to continue; otherwise the Lords decern in the declarator. For the Lords apprehended the tutor was poor and might dissipate. *Vol. I. Page* 182.

Winter Session, 1681–2. WILLIAM HOGG, Advocate, *against* SIR WILLIAM KER.

See the prior parts of the Report of this Case, Dictionary, page 1,3109.

MR William Hogg, advocate, at last prevailed in his declarator against Sir William Ker, (3d February 1680,) and the Lords again reponed him to the place he had in the Chancellary Chamber. *Vol. I. Page* 182.

1682. *March* 30. GORDON *against* PETRIE.

GORDON, a trooper, who had married Petrie, daughter to a rich farmer in Salton, being denied the tocher, because it was left by her father conditionally, if she married with Fletcher of Salton's consent:

The Lords found it sufficient that she had required Salton's consent, though she did not obtain it; unless they will allege some reasonable cause of his dissent, or some disproportion in the match: though it was offered to be proven that her father, before his death, had declared his aversion to her marrying of

that man; but, *nota, they call him Gordon.* See the contrary decided in Dury, 16*th December* 1629, *Home.* *Vol. I. Page* 182.

1682. *July 5.* The TOWN of PAISLEY *against* The SHERIFF of RENFREW.

PITMEDDEN, being this week on the Bills, reported the case of an advocation given in by the Town of Paisley against the Sheriff of Renfrew, craving a general advocation of all actions that should be pursued against any of their inhabitants before the Sheriff's Court; because they were expressly exemed by their charter in 1448, given them by King James IV. with all the privileges of the burghs and abbacies of Dumfermline, Newburgh, and Arbroath; and they had a declarator of their exemption depending before the Lords.

The Lords refused a general advocation, as unusual; but, when they should be pursued, ordained them to give in special advocations of each particular action, and the Lords would consider them.

Yet I see a general relaxation against all hornings *quoad* the effect of a service, granted to the Earl of Crawfurd, in Dury, 19*th June* 1630.

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1682. *November* 7. ELIZABETH and —— BARCLAY and PHIN, their MOTHER, *against* PHIN and DUNCAN.

IN a declarator of the commission of a back-tack in a wadset, for not paying the back-tack duty, by the space of three or four terms run together; it was ALLEGED, The back-tack not being conceived under an irritancy in case of not payment, by suffering two terms to run in the third unpaid, the failyie could not be declared.

The Lords, upon Forret's report, found such back-tacks had, in their own nature, a legal irritancy, though there was none in the contract and paction; and therefore declared it was incurred; and admitted the creditor to the natural possession of the wadset-lands, unless the debtor would purge the failyie by payment of the bygones before extract, and would find caution to pay it in time coming.

Though some cried out on this as extraordinary, yet the same was decided before; whereof Stair, *tit.* Tacks, p. 338, gives instances.

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1682. *November* 7. DOCTOR HARY BLYTH *against* LAWSON.

MR Hary Blyth, Doctor of Medicine, pursues a reduction of a comprising led by one Lawson, upon this ground, That the lands of Soultry, which are ap-