

1685. *March 18.* DANIEL THORNTON and WILLIAM GAIRDEN *against* DAVID DINMUIR.

DANIEL Thornton and Mr William Gairden, minister of Edinburgh, give in a complaint against Mr David Dinmuir, advocate, bearing, that he, being procurator for the said Daniel's children, made a transaction for them with Forbes of Ballogie and Mr Gairden, about Doctor Maul's money, and yet took the bond of 1600 merks only in name of one of the daughters, whereas they had all a like share and interest; and afterwards took an assignation thereto from her: which looked like *pactum de quota litis*, and endangered Mr Gairden to pay it twice, both to him and to the other children.

The Lords allowed them to turn their bill into a declarator that the money belonged to the whole bairns; and having, *ex officio*, examined witnesses thereon, they found Mr David could not have right to the whole, but only to his cedent's share and proportion of the sum. *Vol. I. Page 355.*

1685. *March 20.* GRAY of SHIVEZ *against* The EARL of ABERDEEN.

GRAY of Shivez having raised a reduction against the Earl of Aberdeen, on the head of circumvention and concussion, as to the rights of the lands of Menzies of Balgonie, with an exhibition; he, on a bill, gets the Earl stopped from deponing in the exhibition, till he should have witnesses present to confront with him; for citing of whom they granted a diligence; but declared, if my Lord was not here in the beginning of November next, they would then allow him to depone on a commission at home. *Vol. I. Page 355.*

1685. *March 20.* GAVIN MARSHALL *against* The CREDITORS of BRUCE of CLACKMANNAN.

GAVIN Marshall, chamberlain to Bruce of Clackmannan's estate, for the behoof of his creditors, gave in a bill representing, that the former coal-sinks were now unprofitable and wasted; and therefore craving leave to put down new eyes and sinks, for improving the casual rent.

The Lords, after intimation to the creditors, granted the desire of this bill. *Vol. I. Page 355.*

1685. *March 20.* SIR JAMES COCKBURN *against* The CREDITORS of PRESTON of VALLYFIELD.

SIR James Cockburn of that ilk, as a creditor to Preston of Vallyfield,

gave in a bill much of the same nature, bearing, that the coal-works upon the said lands required much cost and expense to uphold them; so that one creditor is not able to undergo and manage it; and therefore craving, that they would appoint one of their number to use a formal roup of the said lands and coal, and set them in tack for such duty and such term of years as they shall see fit; that the said works may not decay, to the prejudice of the creditors.

The Lords ordained this bill to be intimated in the Outer-house, to see if the other creditors had any thing in reason to offer against it.

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1685. *March 21.* THOMAS LITTLEJOHN *against* ANDREW LITTLEJOHN and WILLIAM CLARK.

THOMAS Littlejohn having given in a petition, bearing, that his father Thomas Littlejohn, tailor, left an opulent estate, but it falling into the hands of Andrew Littlejohn and Mr William Clark, his two uncles, they have dissipated and dilapidated the same; whereanent he hath count and reckoning depending against them; and, in the mean time, they enhance and engross all: therefore craving, seeing he could not close his count and reckoning this Session, the Lords would modify some part of his own estate to him, *medio tempore*, to live on.

It being ANSWERED, that the annualrents of his father's debts were yet unpaid, and behoved to be first satisfied;—the Lords modified L.100 Scots of alimant to him, after the payment of the annualrents. *Vol. I. Page 356.*

1685. *March 24.* ARCHIBALD CAMPBELL *against* JOHN ELIES of ELIESTON.

MR John Elies of Elieston having been charged by Mr Archibald Campbell of Kilpont, for L.10 Scots yearly since 1669, (when the militia was established,) for his proportion of a militia horse, whereof Kilpont was the leader and out-putter, and Elieston a contributor, conform to an Act of the Commissioners of the Militia; Elieston, for himself and tenants, having procured a suspension thereof upon compensation, &c.—Kilpont gave in a bill, showing that such charges could not be suspended, nor compensation obtruded against it; for that were to retard and disappoint the king's service; and that the Acts of Parliament 1669 and 1672 ordained all such cases to be discussed by the commissioners of the militia.

The Lords, on Redford's report, recalled and annulled the suspension; and remitted the case to the commissioners of the militia in Linlithgowshire.

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