

cured a ratification of it there, when he was past 21 years ; and having brought him home *anno* 1670, when he was 23 years old, he, at Dumfermline, impe- trated from him another disposition of all, and restricted his annuity to 3000 merks a-year ; and that the pursuer having complained of this to the Parlia- ment in 1681 and 1685, they remitted it to the Session. And they were redu- cible deeds, the first being taken from a minor by his sole intromitting curator, *sine quo non* ; and the second was *ante rationes redditas*, and a continued tract of the same cheat, and worse than *Cornelius Neilson's to Bonar's Heirs*, men- tioned 7th December 1682.

ANSWERED,—He was a perverse boy, and riotous, refusing to stay at home ; and he choosed George Wardlaw himself, though he had at first Mr Robert Melvil, his own uncle, and a grave man, to be his tutor. 2do, That the first disposition was acknowledged to be but a trust ; but the 2d at Dumfermline was most onerous, and adjusted by the Lords Preston and Cranston, his friends ; and if he and his mother (who has a great liferent) live long, it will be a dear bargain to Pitrevie. 3tio, It is homologated since, by his discharging the an- nuity quarterly, and a new disposition since his complaint in Parliament, revised by Mr David Dewar, advocate, his good-brother. 4to, Pitrevie bruiks by valid rights granted by a major not declared an idiot ; and so they cannot be taken from him ; and Dury, 5th July 1635, *Leslie*, shows, that the Lords rejected a reduction on qualifications of circumvention stronger than thir. 5to, Pitrevie cannot count now for his tutory, his father being dead and discharged, and so presumed to have given up all his instructions. But it was offered to be proven they were yet in his own hand. The President desired to know the true value of the estate dispoed, that he might consider the lesion Abden had by the bargain.

This cause being advised on the 17th February 1688, the Lords sustained the many reiterated acts and contracts to purge the circumvention ; and as- soilyed.

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1687. June 29. The EARL of LAUDERDALE *against* JOHN WATSON.

IN the Earl of Lauderdale's removing against John Watson, late collector of the cess in the Merse, from a roum in Swinton ; the Lords, on Saline's report, repelled his other defences, but sustained this, that Sir William Sharp, who stands in the right of that estate, gave orders to David Maitland to let him sit another year ; and found it probable *scripto vel juramento* of Sir William.

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1681, 1682, 1684, 1685, 1686, and 1687. The CHIRURGEONS of EDINBURGH *against* The APOTHECARIËS.

See the prior part of this case *supra*, page 408.

1682. January 24.—His Royal Highness the Duke of Albany and York

came to the Session, and was present at the debate between the Chirurgeons and Apothecaries, of which *vide infra*, 14th Feb. 1682. *Vol. I. Page 170.*

*February 14.*—The long debate carried on with much animosity betwixt the Chirurgeon-apothecaries and the simple Apothecaries of Edinburgh, (17th Nov. 1681,) was this afternoon advised and decided as to the first point of it, anent the conjunction of the two callings, *viz.* of chirurgeon and pharmacia in one person; but it was not reported till the next day, being the 15th of February. The words of the interlocutor were:—The Lords found and declared that the employment of chirurgery and pharmacy, being two distinct employments, and both requiring a great deal of care and knowledge, and various and distinct attendance, shall hereafter, within the city of Edinburgh and liberties thereof, allenarly, (so that the interlocutor extends not to other burghs or places of the kingdom,) be exercised by distinct persons, and that one and the same person shall not exerce nor be employed in both trades and employments. And that albeit chirurgeons may buy and sell simples as any druggist or other merchant may do, and may compound such drugs as are necessary for chirurgical or external operations, yet that they cannot compound any medicament to be taken internally by the mouth; excepting always from this declarator the present chirurgeon-apothecaries that are at present actual masters in both employments, and do actually keep shops within the Town of Edinburgh and liberties thereof; as to which bounds this declarator extends, and no farther: and that in respect of their being in possession, and of their experience.

See the English statutes, *anno — Jacob. R.* where he expressly separates the office of a painter and a plasterer, and declares they shall be distinct. *Item*, the same statutes, and *Henrici Octavi, c. —*, where the College of Physicians is erected at London, and the privileges of the incorporation of Chirurgeons and Barbers there are fully ratified. By the civil law, one was both *medicus, chirurgus, et pharmacopæus*, all in one person, and commonly they were slaves or *libertini*; hence *l. 7, § 8, D. Ad. Leg. Aquil.—Si Medicus, id est Chirurgus, imperite secuerit, &c.* See *Calvin. Lexicon. Vocab. Medicus, et Chirurgus, et Pharmacus*, where he divides medicine into three parts, *viz. diætetica, pharmaceutica, et chirurgica.*

It was complained that the Session made so familiar with the Town of Edinburgh's constitutions and seals of causes, seeing all lawyers agree that *Collegia licita possunt facere statuta quæ ligant opifices istius universitatis.*

This interlocutor alarmed all, but especially the chirurgeon-apothecaries' apprentices, that they were debarred from the exercise of both employments, though they had *bona fide* given out a considerable apprentice-fee in contemplation of thereby obtaining the privileges in both callings. But to open the door to their whole apprentices, was to suspend the effect and commencement of their interlocutor for fifty years to come, at least. Therefore none had any hopes of being comprehended but such as had presented their bills, craving to be admitted free of that incorporation, before the date of the interlocutor; in which case there were only three, *viz.* John Lauder, James Muirhead, and Thomas Edgar. For John Lauder, I drew a bill to the Lords, showing the specialties and singularities of his case; that in law *actus inchoatus habetur pro completo, et cingendus pro cincto*; and there was a *jus quæsitum* to them by their indentures which cannot be taken away from them by a posterior and supervenient interlocutor;

and in all cases requiring *tractum successivum futuri temporis*, even Acts of Parliament themselves, and much less sentences of the Lords, can regulate nothing but future emergents; especially in correctory laws and interlocutors taking away privileges *bona fide* possessed by persons peaceably before these interlocutors; seeing he was on his trial, and was within a short space to have been admitted a freeman in both. Therefore we craved he might, in construction of law, be esteemed as an actual master, so that the interlocutor might not cut him off.

The Lords, having considered this bill, with the other two young men's bills to the same purpose,—upon the 8th March 1682, gave this deliverance on John's bill (and the rest got the same, *mutatis mutandis*):—

The Lords having considered John Lawder's bill, in respect of his singular circumstances of his being on his trials in order to admission, albeit he be not as yet actually admitted a master in chirurgery and pharmacy, yet they allow him the benefits, immunities, and casualties that actual masters in both the said employments and public shop-keepers have by the foresaid interlocutor of the 14th and 15th February last, *viz.* that he may practise in both employments during his natural lifetime, and that how soon he shall be admitted in the ordinary way by the Chirurgeons and Apothecaries.

After this the simple Apothecaries and Physicians (who carried on this whole cause,) gave in a petition, craving to restrict the Chirurgeon-apothecaries to one table.

The Lords, in answer thereto, on the 24th March 1682, decerned the Chirurgeon-apothecaries, masters, who, by their former interlocutor, are allowed the exercise of both their employments during their lifetime, and the three young men, *viz.* John Lawder, James Muirhead, and Thomas Edgar, who by particular interlocutors are declared to be in that condition, albeit they be not yet actually admitted masters of both employments, to make their election, to meet and sit at any of the two tables of the said two employments; and to declare their elections betwixt and Tuesday next: and if they do not elect and declare betwixt and said day, the Lords decern them to sit only at the Chirurgeons' table, as the eldest and first erected trade. As also, they find that no master hereafter can take apprentices to make them freemen in Edinburgh, in any employment except in that for which they sit at the table; and that all the apprentices already entered are to be free only in that employment and trade, at whose table their masters sit.

Of the apothecaries' art honourable mention is made, 2d Chron. chap. xvi. and Exod. chap. xxx. ver. 25. *Vol. I. Page 173.*

1684. *March 18.*—The simple Apothecaries of Edinburgh gave in a bill to the Lords, representing that they had separated the two callings of Chirurgeon and Apothecary, (*vide* 14th February 1682,) and therefore craving that the privileges which the Magistrates of Edinburgh had by their Acts given to the Chirurgeon-apothecaries, when conjoined, might by the Lords be declared solely to belong to the simple Apothecaries now; and that the Magistrates might name them a visitor to that effect. ANSWERED,—This separation of the two trades was not to take effect till the present Chirurgeon-apothecaries were all worn out; and so, till then, the Apothecaries could not seek the application of these privileges to themselves *in solidum*.

The Lords ordained the Magistrates of Edinburgh, at their next Council-day,

to make an Act communicating these privileges to the Apothecaries alone, and to name a visitor; (which is to erect a new trade, whereas by the sett there can be only 14 deacons or visitors;) with certification that, if the Magistrates fail, they would do it for them.

Then, on the 26th March, a new bill of the Apothecaries is advised. The Magistrates of Edinburgh having, in obedience to the Lords' former deliverance, nominated David Pringle, Deacon of the Chirurgeons, to be visitor to the single Apothecaries, they complained of this as contrary to the Lords' interlocutor, on the 14th February 1682, disjoining the two employments of chirurgery and pharmacy; and therefore craved to be erected into a company by themselves. ANSWERED,—This was against King James's decreet-arbitral, discharging any meetings or conventions of burgesses, except of the 14 crafts, and was against the Act of Parliament 1606.

Yet the Lords of Session annulled the Town's nomination, and appointed John Joussy to be the Apothecaries' visitor, as to the sufficiency of their drugs, &c. for this year; and, in time coming, established this order, that the simple Apothecaries should give in a leet of three of the calling yearly to the Magistrates, out of which the Magistrates should choose one; or else the Town-Council to give them out a leet of three, out of which they should elect one, to be their visitor and overseer for that year.

This was thought a great infringement, to dictate thus, and remodel the Town's government. *Vide* 7th January 1685. *Vol. I. Page 282.*

1685. *January 7.*—A bill was given in by the College of Physicians in Edinburgh, craving that they would either allow them to name a visitor for viewing the Apothecaries' drugs, one of the Magistrates being present with them, or else that the Privy Council would appoint one; (see of this, 18th March 1684 :) for the Physicians represented, that they were blamed when the patients died, and yet the fault was oftentimes in the unskilfulness of the apothecary-compounder, (their aim was against the chirurgeon-apothecaries,) or in the rottenness of his drugs. Abbotshall opposed this, and represented that, if the apothecaries' faults and extortion deserved regulation, it was as just that the physicians should be regulated also, as in Holland and France, where they had a *quart d'ecu* for each visit. The affair was committed to the Register and Abbotshall. *Vide* 25th March 1685.

The Register said, in complaining of drugs, they had great reason to notice an universal abuse in the brewers of ale, by poisoning it with salt to make it tasty, which spoiled and infected our blood. This was also referred, and committed. It was also represented, that they rubbed their barrels with the seeds of coriander, &c. which gave the ale a strong taste, and served instead of malt, and so might be sold cheaper, and was likewise unwholesome.

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1685. *March 25.*—The simple Apothecaries of Edinburgh having applied to the Town-Council, to name a visitor to their trade for this ensuing year, conform to the Lords' appointment, mentioned the 18th of March 1684; and they considering the Physicians' patent, ordaining a chirurgeon-apothecary to be likewise present at the visiting of the apothecaries' drugs, and an Act of Privy Council (7th January last,) relative thereto; they named two visitors for this ensuing year, *viz.* a chirurgeon-apothecary and a simple one. Upon this,

the Apothecaries gave in a petition to the Lords, complaining, that the Town of Edinburgh had vilipended and contemned their authority and act foresaid.

The Lords rescinded the Town-Council's nomination, and appointed John Foulis, apothecary, to be visitor for this year; and called in the Town's assessors and reproved them, for giving the Town advice to contradict the Lords' Acts, and to vote their decreets in their Council; seeing this was still to keep up the two trades in one, which the Lords had separated. They farther craved, in their bill, that the Lords would empower the calling of the simple Apothecaries to name a visitor to themselves: but the Lords would not grant this.

*Vol. I. Page 357.*

1686. *December 18.*—The simple Apothecaries of Edinburgh gave in a petition against the Magistrates thereof and the Chirurgeon-apothecaries; complaining, that though the Lords had, by their decret, separated the two callings, and appointed the visitor of the apothecaries to be only chosen out of themselves, (*vide* 20th March 1685,) yet they had so far contemned this, as to choose a chirurgeon-apothecary visitor, and even before John Joussie's year was out. The TOWN ANSWERED,—They were *in bona fide*; for the chirurgeon-apothecaries produced a new gift to them from the King, restoring them to all their privileges, and particularly to that of visiting the drugs, &c.

The Lords being dissatisfied with the impetrating these gifts to the hindrance of justice, ordained first the said gift to be produced; which not being done, they annulled John Baillie's nomination to be visitor, as being done by precipitation, before the other's year was out.

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1687. *June 30.*—The simple Apothecaries of Edinburgh having complained upon the Chirurgeon-apothecaries, that they had prevailed with the Town-Council to name one of them for a visitor; the Lords cassed the nomination, and appointed Hugh Neilson visitor for the year ensuing. *Vol. I. Page 462.*

See the College of Physicians of Edinburgh against George Stirling, an Apothecary, *supra*, page 366.

1687. *July 2.* DAVID LINDSAY *against* VANSOLINGEM and COLMAR.

IN the action pursued by David Lindsay, Secretary Melfort's servant, against Vansolingem and Colmar, the Dutch printers, and John Coupar and Mr Charles Lumsden, their cautioners; Magnus Prince and Captain Collison, the two arbiters, having pronounced a decret-arbitral in favours of David Lindsay, on this colour, that the Dutchmen acknowledged, before them, the truth of the articles of his charge; and it being represented that they were strangers, ignorant of the language, and so might easily mistake; and that such confessions did not bind, except they were subscribed, as was found in Stair, *24th July 1661, Buchanan*;—the Lords had ordained the arbiters to be examined on what evidences they decerned, and what articles were acknowledged: and the Lords having advised their depositions, it was ALLEGED, for the Printers,—That the decret-arbitral differed both from David Lindsay's count-book, under his own hand, and from a prior stated account of Captain Collison's.