

duction of the dispositions. And repel the qualifications of trust condescended upon, that the apprising led at the instance of Robert Stewart, was, from the beginning, for the use and behoof of William Hamilton of Binny against whom it was led. And remit to the auditor to rank the creditors, and to discuss all the objections against the other particular rights produced. *Vide* 19th July 1687. *Vol. I. Page 410.*

1687. *July 16.*—In the case of Sir Robert Miln of Barnton against the Earl of Annandale, and other creditors of Alexander and William Hamiltons of Binny, and Hugh Sinclair, mentioned 30th March 1686, it was further ALLEGED, that Barnton, by a minute of contract with Hugh Sinclair, was bound to acquire his rights at 16 years' purchase; *ergo* he cannot obtrude the legal of Clarkson's apprising to exclude Hugh's creditors, nor use it farther than for security of the sums he gave for it.

ANSWERED,—*1mo*, The creditors must fulfil the minute, if they crave the benefit of it. *2do*, It cannot accresce to the creditors; for the maxim, *jus superveniens auctori accrescit successori* holds only in voluntary rights, where an adequate price is paid, but not in the acquiring of diligences upon lands of a far greater value than the sum of the diligence. See Stair's Institutes, *tit. 24.* It was referred to Castlehill to hear both parties. *Vol. I. Page 467.*

1687. The MAGISTRATES of EDINBURGH *against* The FLESHERS and VINTNERS.

*July 6.*—The Magistrates of Edinburgh, on a general complaint of the extortion of the markets, having convened the Fleshers and Vintners before them, and on their declarations, (not on oath,) finding they had transgressed, had fined them: whereon they gave in a bill to the Lords, representing, where there is no law, there can be no transgression; and that there is no standard set for the price of vivers; and if they buy dear, they must sell accordingly. The Magistrates gave in an answer by way of bill, showing how the Fleshers do extortion, forestall, and regrate, by taking all the parks and inclosures about Edinburgh, so that they scarce suffer any to furnish but themselves; that it is notour they buy beasts as cheap as ever; that they cheat us by blowing their meat, and render it unwholesome, to make it seem fat; that they make the Act of Parliament 1681, for selling by weight, impracticable, by the trick of casting in bad pieces, and bones not belonging to the piece bought: That the Vintners do not observe the printed prices and table of wild fowl, in buying them from the poultrymen, but give what they crave, and exact triple again; and have them so bound up, that, till they be served, the private families and burgesses can get nothing; that they buy prohibited bread, neither of weight nor fineness conform to the standard, and get a dozen for 8 pence, which they sell at 12 pence; and in sugar, they take at the rate of 24 pence for the pound, which stands them but 8 pence; and yet they make up their ounces so small that they lose nothing of their 16 ounces: and even so in their measure of tobacco, &c.: and if the Lords liberated them from their

finer, the Magistrates will notice them no more: and the fines come not to their use, but to the poor.

It was referred to Carse; who having reported it on the 29th of July, the Lords refused the Fleshers and Vintners' bills, and remitted them back to the Magistrates of Edinburgh, whose procedure they approved. *Vide* 19th July 1687. *Vol. I. Page 464.*

*July 16.*—The Privy Council allows the landwert Fleshers to bring in their meat to Edinburgh all the days of the week, and that the Town appoint them slaughter-houses at the North-loch side; and discharges the Town, or the Edinburgh Fleshers, to exact any imposition from them. This, on the matter, dissolves the Fleshers of Edinburgh's seal of cause from being a deaconry, or corporation. And some think the Baxters' seal should be also cased and annulled, and all permitted to bring in bread every day; as the Maltmen are discharged to incorporate into a deaconry. See Acts 121 and 122, Parl. 1540. *Vol. I. Page 467.*

1687. *July 20.* GEORGE GORDON and SIR JAMES DICK *against* RIGG of CARBERRY.

GEORGE Gordon and Sir James Dick of Priestfield, his tutor, against Rigg, lately of Carberry. The Lords, on Carse's report, find the resolute clause and irritancy was not adjected to the clause *de non alienando*, but to that for not payment of the feu-duty. But, notwithstanding that the term assigned is already elapsed, for proving that a great sum was given for the composition *eo nomine*, that the right was burdened with an irritant clause *de non alienando, ad redimendam vexationem*, allow the defender to adduce his witnesses, and to prove the same betwixt and Tuesday next; and, in the mean time, supersede extracting. And declare they will allow what shall be proven in manner foresaid.

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1687. FOTHRINGHAME of POURY *against* GRAHAM of CLAVERS, NORTHESK, and PANMUIRE.

*June 10.*—FOTHRINGHAME of Poury gives in a bill against General Graham of Clavers, alleging he had violently stopped his possession of some assize fish due to him by the infestments in Broughty Castle when Lord Gray had it, *viz.* nine fish out of every boat, for their liberty of anchoring on the rocks there in storms, and to gather bait; which one infest in wair may hinder any to do on his sands. See Skeen, *de Verb. Significat. voce Wair.*

The Lords ordained Poury to condescend on the deeds of violence. But he was not able, farther than that Clavers had discharged his own tenants to pay it; which he might do: but, as chief magistrate and constable of Dundee, he allowed the fishers in the market to refuse him payment.