

1687. *December 7.* JOHN LAUDER *against* JOHN ROBERTSON.

JOHN Lauder, chirurgion-apothecary, having charged Mr John Robertson, portioner in Tranent, on a bond of 1000 merks for a prentice-fee with the suspender's brother; who alleged he would not have bound him, if it had not been in contemplation of his residing in Edinburgh, and that he has gone to Kirkcaldy:—ANSWERED,—The master is best judge of his own conveniency, and where he is best employed; and the boy must follow him, and will get his freedom in Edinburgh notwithstanding.

The Lords, on Redford's report, repel the reasons of suspension, and find the letters orderly proceeded, if it appear, that, notwithstanding of the charger's removal to Kirkcaldy, the suspender will have his freedom at Edinburgh; the charger being always obliged to book the suspender, when the time comes by the custom of the town. And accordingly John Lauder got a testificate from the deacon and brethren of the trade, bearing, that he would get his freedom notwithstanding of the removal out of Edinburgh. Whereupon the Lords decerned.

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1687. *December 8.* The EARL of SOUTHESK *against* SIR THOMAS NICOLSON of TILlicouTRY.

SOUTHESK's action against Sir Thomas Nicolson of Tillicoutry was reported by Edmonston. This was for repetition of L.500 Scots, which was alleged *indebite* paid by Southesk to Tillicoutry, the defender's father, more than was resting at the time. ANSWERED,—It must be presumed to have been for some preceding terms' annualrents. Which presumption the Lords sustained to stop *conditionem indebiti*, unless Southesk would prove the preceding annualrents were paid *aliunde*.

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1687. *December 8.* The DUKE of GORDON *against* The EARL of ABERDEEN.

THE Duke of Gordon's reduction against the Earl of Aberdeen, was advised; wherein the Duke quarrelled a resignation which he had given the Earl, when Chancellor, of some lands he held of him, to be holden of the King; that so they might not be within the Duke's new regality; and that the Chancellor might consent to the passing of it. The Duke ALLEGED,—It was not read to him, and it was of a different tenor than what was communed on, *viz.* That he should acquire lands of the like value, and take them holden of him; and craved that Priest Dumbar, Mr Thomas Gordon, and other witnesses, might be examined thereon *ex officio*.

The Lords found it only probable *scripto vel juramento*, especially seeing he