

1694. *January 10.* The EARL of DUMFRIES *against* WILLIAM CRAWFORD of DALLEAGLES.

ARNISTON reported the Earl of Dumfries against William Crawford of Dalleagles. The question was, Whether the fine exacted by Dumfries, as Sheriff, from Dalleagles, for his church-irregularities, and proven by his discharge, was a present ground of compensation against Dalleagles' clear liquid bond to the Earl. Some were for remitting the case to the Commission of Parliament, as incompetent to be judged by the session: but the plurality rejected the compensation as not clear, in regard sundry questions arose; whether the money belonged to Dumfries, *jure proprio*, as Sheriff, or only as collector for the King, and countable to his treasury; and if he had accounted for this or not; or if any share of it, for his encouragement to execute the laws, fell to himself; and if repetition of such fines were allowed by the rescissory act, or only in the case of donatars; and if compensation was more favourable than repetition.

There being so many perplexed and thorny points arising from it, the Lords were induced to repel the compensation as not liquid. Some thought the right of this money was still in the King's person, and undischarged by the Act of Parliament foresaid, and that the party might get a gift of it from the King, and then it would furnish a plain ground of compensation.

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1694. *January 10.* DUMBARS *against* AGNEW.

HALCRAIG reported Dumbars against Agnew. The Lords repelled the dilator, that it could not be both executed at Edinburgh and Galloway in one day; seeing the pursuer abode by the execution as true, and they might be in the town of Edinburgh, though Galloway heritors; and there might have been two summonses taken off the signet, and the one sent to the country and the other kept at Edinburgh: but allowed them to propone improbation by way of exception, if they pleased.

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1694. *January 10.* SCOTS *against* JEAN SCOTT, Lady Newgrange.

HALCRAIG reported Scots, children to Benholm, against Jean Scott, Lady Newgrange, relict of Sir Alexander Ogilvey. The assignation by Scott of Heddewick to Benholm's children, of the 900 merks owing to him, upon heritable security, by Carneggy of Pittarrow, being quarrelled as null and vitiated, and filled up by another hand than the writer's, and when he was on death-bed;—the Lords, before answer, allowed the writer and witnesses to be examined, *ex officio*, when the said parties' names and other blanks were filled up.

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