

noways concerns nor extends to lawful buyers, and a stranger purchasing for a full and adequate price, who was not a creditor before. But, in regard some of the Lords thought it hard to allow a bankrupt to sell his lands, they also added another reason to their decision, *viz.* that a horning is not equivalent to an inhibition, *quoad* the effect of the Act of Parliament 1621; and cannot be reputed such a diligence as will hinder him to sell to a third party at any reasonable and just price.

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1694. *January 19.* ALLAN and BYERS *against* The REPRESENTATIVES of ROBERT DEANS.

PHILIPHAUGH reported Allan and Byers against the Representatives of Robert Deans. The Lords found, though Patrick Steel had compeared in this process and defended, yet, not having produced his interest; and, by his oath, it now appearing that he had not a total assignation from Robert Deans, but only a wadset, whereof the reversion was provided to Mrs Margaret Mauld; therefore they found he came not fully in Robert Deans's place to be sole contradictor in this process, but that Deans's heirs and representatives behoved to be cited; and Mrs Mauld, the reverser, might be called *incidenter* if they pleased, that all parties having interest might be in the field.

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1694. *January 19.* JAMES ARBUTHNOT of CATTERLAND *against* JAMES GENTLEMAN, Skipper in Montrose.

ARNISTON reported James Arbuthnot of Catterland, against James Gentleman, skipper in Montrose. The Lords repelled the reason of suspension, that the apprentice had gone to the King's fleet, and so the apprentice-fee was not due to the master; and found it not relevant, unless the cautioners in the indenture would say, that either he was drawn by lot or forced away *vi majore*: and that the master needed not prove that he protested against the Magistrates, who accepted of the boy to make up one of the number of seamen they were obliged to furnish; but assoilyied from the sixpence *per* day for the want of his service.

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1694. *January 19.* CALLENDAR *against* HAMILTON of OLIVESTOB.

ANSTRUTHER reported Callendar against Hamilton of Olivestob, who was bound, by a bond of presentation, to produce and enter the person of Charles Hamilton in prison within ten days, or as soon as he could recover his strength; and it was pretended that he lingered under that disease to his death. The Commissaries, before whom it was first tabled, took a conjunct probation as to his condition; and found it proven that he went abroad, and rode several