age of these bursers; because Mr John Bayn, by a paper, left the nomination of those who should be patrons to Sir John Nisbet of Dirleton and Sir William Bruce; and they most partially filled up their own names therein; which could not be the defunct's meaning, else he would have named them: likeas it was on death-bed, and filled up after his decease. There was a former interlocutor sustaining their taking the patronage to themselves; but the Lords were desired to reconsider and review it. *Vol. I. Page 595.*

1693 *and* 1694. HARPER *against* YOUNG.

1693. *December* 28.—SIR William Hamilton, Lord Whitelaw, as probationer, reported the debate between Harper and Young. A creditor, adjudging a wife's right on a tenement of land; the debtor compearing, seeks to stop the adjudication, by offering to produce a progress, and to put him in possession, and restrict him to a part of the lands, and produced her liferent seasine.

ANSWERED,—The Act of Parliament 1672 relates only to adjudications of the property of lands, where it allows to restrict the creditor to a proportion, but cannot take place if the right craved to be adjudged is only a liferent, for then I must have the whole; because, if the liferenter die, the adjudication, in so far as it was unpaid during the liferenter's lifetime, perishes, and ceases with it, and he may lose his money. The President moved, that it might be restricted, if, upon a valuation of the liferent, at four or five years' purchase, that price would extend to more than the creditor's debt, for which he craved adjudication; but it was considered she would not be forced to sell it; therefore, the Lords found, she behoved either to find caution to pay what should be resting of the sum in the adjudication at the time of her death, or else they would not restrict, but let the adjudication go for the haill liferent.

It was also further ALLEGED in this process, That she had a separate right of fee, besides the liferent; in which case, if proven, the progress of the liferent seasine produced was not sufficient to restrict the adjudication.

Vol. I. Page 585.

1694. *January* 20.—The case was,—If a creditor, adjudging from his debtor an adjudication which the debtor has on a third party's lands, could be restricted to a part of it;—or if his adjudication behoved to be of the whole adjudication sought to be adjudged, being *in cursu*, and the legal not expired. Some thought, if the sum in the first adjudication was much greater than the sum for which it was craved to be adjudged, then they might offer a progress and a part. Yet, the Lords considering the inconveniences that might follow, and that this was not a clear right, as the Act of Parliament 1672 requires, but a back-bond,—therefore they granted a total adjudication, and would not restrict to a part. *Vol. I. Page 595.*

1694. *January* 23. CARNEGY *against* CARNEGY of KINFAWNS.

HALCRAIG reported Carnegy against Kinfawns, his elder brother. The