

1694. *February 13.* AGNES GILHAGIE, and WALLACE, her Husband,
against WALKINSHAW.

THE Lords found these words, in James Anderson's oath, That he had ordered them to hold count for the same to George Anderson, his brother, which was contended to be a transmission of the right to George, did not import any more but to count with his brother, in respect he was unable to attend by sickness; and that it did not prove George was a partner. *Vol. I. Page 607.*

1694. *February 13.* ROB, Merchant in Glasgow, *against SMELLIE.*

THE Lords found the bond was drawn in the Scotch form, and that both were *correi debendi*, and principals: but, in regard it was alleged there was also an English bond for the same sum, and that, by the custom of England, he that is second named in a bond, is reputed only cautioner; therefore, before answer, they ordained him to depone anent the having of the said English bond. *Vol. I. Page 607.*

1694. *February 13.* MARION CARMICHAEL *against* ALEXANDER CHAN-
CELLOR.

THE Lords repelled the hails reasons of advocation; and found, seeing her husband had left her, she might pursue for the maills and duties of her own proper lands, without his concurrence: and remitted the cause back to the Sheriff. *Vol. I. Page 607.*

1693 and 1694. The DUKE and DUCHESS of HAMILTON *against* HAMILTON
of BANGOUR.

1693. *Feb. 7.*—THE Lords found Trotter the adjudger's instrument of offer of a year's annualrent of the sum, and a bond for the rest, to make up a year's rent, with the charter to be signed, bearing *salvo jure domini superioris*, was sufficient to stop and purge the non-entry, though caution was not offered; albeit it was only offered to the Duchess, and the Duke cited at the market-cross, he being then out of the kingdom.—See Stair, *9th February 1669, Black.* But, in regard the Duke's procurator then offered to pay the adjudger the principal sum, and that it did not appear whether he had a special mandate to that effect; therefore the reporter was to hear them, if the superior could redeem after the legal, as well as before, on the 36th Act of Parliament, 1469, allowing the over-lord, on the payment of the sum for which the creditor apprises, to take the lands to himself; which is called, by the lawyers, *regressus seu retractus feudalis, et redemptio dominica.* *Vol. I. Page 554.*