

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.*

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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.*

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

THE Lords repelled the hail 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.*

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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.*