

1695. *February 12.* BAILIE JOHN CHANCELLOR *against* WALTER CORNWAL OF BONHARD.

CROCERIG reported Bailie John Chancellor against Walter Cornwall of Bonhard, for payment of 6000 merks, contained in a decret obtained by him against his father, wherein he had arrested that sum in his hands, as debtor therein to Sir George Drummond; and a day being taken to produce him, he was holden as confessed, and the term circumduced against him. ALLEGED,—All the ground you had to lay on that arrestment was, Because he was standing debtor in Provost Drummond's book; and offered to prove, by his oath, that was the cause of it; and, that being acknowledged, then offered to prove, he was only stated debtor there in £9 Scots, for a candebeck-hat.

The Lords being unwilling to loose decreets, where parties were dead, and so the mean of probation was perished, yet that it might not be *vinculum iniquitatis*, they, in this case, ordained Bailie Chancellor, *ex officio*, to depone upon what ground of suspicion he arrested that sum in Bonhard's hands, as due to Provost Drummond, and the count-books to be produced, and any other documents and evidences, to instruct Bonhard was debtor to him *aliunde* than by the count-book.

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1695. *February 12.* SOMERVILLE OF KENOX *against* MENZIES OF RAW.

HALTON reported Somerville of Kenox against Menzies of Raw. The Lords found the bond, being before the Act of Parliament 1681, the want of the designation of the writer and witnesses may be yet supplied by condescending thereon; but that some adminicles, *comparatione literarum*, or otherwise, behoved to be adduced for astructing thereof. Some thought it ought not to be sustained; but, if they condescend upon any yet alive, that they may be examined thereanent. See *2d February 1665, Falconer*; *22d February 1676, Innes*; and *6th December 1665, Cunningham*.

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1694 and 1695. HOME OF LINTHILL *against* HOME OF WEDDERBURN.

1694. *January 24.*—ARBRUCHEL reported Home of Linthill against Home of Wedderburn. It was a recourse upon the absolute warrandice in a disposition of six chalder of teinds, in regard £145 of them was evicted by Mr Beton, minister of Ayton, by a decret of augmentation of his stipend. ALLEGED,—That warrandice of teinds could never extend to warrant against ministers; because they stood naturally affected with stipends, and all knew their hazard. Some Lords thought, if they were bought at nine years' purchase, (which is the rate of teinds settled by the Act 1633,) then, in regard of the ease in the price, it was