

like case, marked both by Lord Stair and Dirleton, 11th December 1674, *Home and Elphingston* against *Murray*, betwixt an assignee and an arrester.

Others of the tenants deponed, That, since the citation, Blair of Kilfauns had exacted their rents from them, and made them to pay it in to him.

The Lords found this was not *bona fide* payment, and refused to allow it; but, if the Laird would compear, and allege he had a locality and aliment out of the estate, wherewith the escheat was burdened, they would deduce and allow it out of the first end thereof.

Some of them deponed, they owed half a salmon for their share of a coble-net and liberty of fishing in the water of Tay.

The Lords thought this could be no otherwise cleared than by discerning them once in two years to pay a salmon; and, seeing they could not deliver *ipsa corpora* for bygones, therefore they modified a merk for the price of the salmon, in regard one of them deponed, that that was the price exacted; though a conventional price with one makes no rule to the rest. Those who deponed on bolls of victual, the fiars of the year were appointed to be produced for regulating that. But the threaves of straw having no certain price, one threave this year being of more value than two another year, a diligence was granted for liquidating them, if they insisted thereon.

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1707. February 20. BROWN against The TOWN of EDINBURGH.

THE TOWN of Edinburgh having fined one Brown, for keeping and setting of chairs and sedans for hire, whereas they had given the sole privilege thereof to one Mrs Hay and Thomas Dunnet her husband; Brown suspended on this reason, That such a gift, being a monopoly, was contrary to law, and ought not to be allowed; and it were singular, if the Town of Edinburgh could assume that power which the Queen and Parliament did not. And, by the same rule, they might authorise two or three gardeners to sell kail and leeks, or other pot-herbs, and discharge all others; and so in other trades and species of goods: which is absurd.

ANSWERED,—The Town has been in use to gratify decayed burgesses with such gifts as thir; and she was ready to serve as cheap as any other.

The Lords thought the preparative bad; and therefore sustained the reason of suspension, and assoilyed him from the fine.

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1706-7. February 28. WILLIAM MORRISON of PRESTONGRANGE against MR HUGH CRAIG, Minister at Gallowsheills.

MR Hugh Craig having granted bond to Dame Jane Morrison, the said Prestongrange's sister, and relict of Sir John Nisbet of Dirleton, for 1843 merks; she, in November 1695, being on deathbed, called for Mr James Kirkton, minister of Edinburgh, his wife, and delivered her Mr Craig's bond in thir terms:— That, on Mr Craig's paying 100 merks to one Gemmil, a kirk-beadle, she should then burn his bond. The Lady dying, Prestongrange, as her executor, pursues