

1683. *December 22.* JOHN CALDERWOOD *against* SCOTT of LOCKGUARRET.

MR John Calderwood against Scott of Lockguarret being advised, the Lords found, from the depositions taken in the incident, and the writs produced by the pursuer, and defender, that the missive letter produced is fully astructed to be the hand-write of Andrew Calderwood; and repel the exception of improbation *hoc loco*, as not now competent *post conclusionem in causa*; the said missive having been produced *in modum tituli ab initio*; reserving action of improbation as accords of the law. And find the pursuer's title is now astructed by production of the principal bond, and that the oaths taken in the incident do not prove payment; and find the general discharge produced does not meet, not being granted for debts and cautionries due by umquhile Walter Scot to umquhile James Calderwood, but only in relation to debts betwixt umquhile James Calderwood and James Scot; but sustain the compensation for the sum contained in James Calderwood's ticket, the defender proving the same to be holograph, and condescending upon that part of the count-book produced, where the like sum for the same cause and year of God 1653, expressed in the ticket, was counted for and stated. As also sustain the receipt under Bailie William Scott's hand, discharging a part of the said sum, to elide the ticket *pro tanto*, the pursuer always proving the said holograph receipt to be the hand-write of the said William Scot, and assign the 10th of January next for proving; and grant diligence to both parties for that effect; but discern for the superplus above what is craved to be compensated.

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1684. *January 4.* ROBERT HAY of DRONLAW *against* The EARL of STRATHMORE,

THE Lords, before answer, ordain the Earl to depone, if, or not, at the time of the communing on the disposition of the lands of Dronlaw, there was any mention made of the teinds; for Mr Robert Hay alleged there was none.

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1684. *January 8.* WILLIAM RUSSEL and BETHIA LESLIE *against* GEORGE MARSHAL and BETHIA ELIES.

THE Lords, on a bill given in by William Russel, writer, and Bethia Leslie his wife, against George Marshal and Bethia Elies, reponed William against the circumduction of the term, and gave him to the 1st of February to bring in the witnesses and the commoners, if his wife's renunciation was given *intuitu* of the additional liferent given her by Stanhope-milns the tutor; and prorogated the term to the said 1st of February.

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