

gifts were sustained before, 29th June 1677, *Archbishop of Glasgow against The Commissary Clerk of Peebles.* Vol. I. Page 279.

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1684. March 6. JAMES REID *against* JOHN REID.

JAMES Reid, merchant in Edinburgh, against John Reid, skipper in Leith, is debated, and decided, anent the setting of a ship, and reducing a decret of the Admiral's. The Lords found, though the set expressed no more but only James Reid and the skipper; yet it behoved to be interpreted not only for the skipper's four parts of the ship, but also for the parts belonging to the other owners, who were called as defenders and joined with the skipper; and so decerned against James for the price of eight sixteen-parts. But, in regard the skipper had not yet, upon oath, given in an inventory of the ship's whole furniture and tackling, they ordained him to depone thereanent: though James was at a great loss by the eleven months' delay, and plea; so that the ship was turned unserviceable; *et res non erat amplius integra.* Vol. I. Page 279.

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1684. March 6. SIBILLA ARNOT *against* ROBERT YEAMAN.

SIBILLA Arnot having given in a bill against Robert Yeaman, portioner of the Nungate of Haddington, bearing that she, as heir served to her goodsire, had an improbation depending of his rights of some lands which his father had acquired from her goodsire; and, *medio tempore*, craved some modification and alimment from him, his rights being only redeemable, and he being more than paid by his possession and intromission:

The Lords refused the desire of this bill. Yet they had granted the like to Maxwells against Carlisle, *supra*, at the 17th of January 1683.

Vol. I. Page 279.

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1682, 1683, and 1684. JAMES DALMAHOY, &c. Tacksmen of Excise, *against* WILLIAM CLEGHORN, THOMAS BORELAND, &c. Brewers.

1682. March 28.—Mr James Dalmahoy, and the other tacksmen of the Excise of Edinburgh, against Bailie Thomas Boreland at the West-port, and some other brewers. The Lords, on Redfoord's report, found the letters orderly proceeded against the brewers,—Dalmahoy and the other chargers finding caution to refund whatever George Miln's brewing should be found to extend to, more than the survey which the tacksmen gave up, upon Sir John Nicholson's decret-arbitral. *Vide infra*, 17th March 1683. Vol. I. Page 181.

1683. March 17.—Mr James Dalmahoy and the other tacksmen against William Cleghorn and the Brewers. The Lords, contrary to what they did 28th March 1682, do now allow the Tacksmen to prove, by witnesses, that, before the assignation they made of the tack to thir defenders, they had consented

to a reference anent Brown of Gorgiemiln's brewing, to Sir John Nicolson, and what excise he should pay for the same; and, that being proven, they found it sufficient to liberate them from the contravention of the warrantice of their assignation.

The words of the interlocutor are:—The Lords find it relevant to liberate the chargers from the deduction of the value of Gorgiemiln's brewing, that there was a reference anent Gorgiemiln's brewing, prior to the bargain betwixt the chargers and suspenders, and prior to the 4th of October 1671; and find the same probable by witnesses, and assign to the chargers' procurators to prove the same.

*Vol. I. Page 227.*

1684. *February 6.*—William Cleghorn, brewer, his bill against Mr James Dalmahoy, and the other Tacksmen, being with the answers read and considered by the Lords; they ordained the Act to be extracted in terms of the last interlocutor; (*vide* 17th March 1683;) and allow the petitioner to raise reduction against Brown of Gorgiemiln, of his agreement and survey of brewing; and appoint him to answer summarily *et incidenter*, in this process, before my Lord Harcous, upon this head, that the decreet-arbitral is unjust and reducible as being *contra arbitrium boni viri*; and ordain Archibald Young to depone if he refused to subscribe the reference, and what was the cause of his refusing; reserving to themselves to consider what his oath shall operate. *Vide* 11th March 1684.

*Vol. I. Page 267.*

1684. *March 11.*—The debate between William Cleghorn, brewer, and the other assignees of the tacksmen of the Excise, against John Brown of Gorgiemiln, (anent which *vide* 6th February 1684,) is reported by Harcus; and the Lords, before answer, ordain the survey-rolls to be produced, that they may see if thir pursuers and other tacksmen had as great an ease in the valuing their weekly brewing as Gorgiemiln has by Sir John Nicolson's decreet-arbitral, appointing him only to pay the excise of four bolls weekly, whereas he truly brewed upwards of 30 bolls; which is *læsio realis* almost *ultra decuplum*. For the Lords thought, if Cleghorn and the rest of them had as great an ease (as Gorgiemiln) effeiring to their brewing, it is unjust in them to quarrel Gorgiemiln's low valuation, seeing he was to have had an interest in the tack as well as they. But they also referred it to three of their number to settle the parties, if they could.

*Vol. I. Page 230.*

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1684. *March 12.* CASTLES *against* ———.

IN the case of one Castles against \_\_\_\_\_, reported by Pitmedden, The Lords found the intimation of an assignation at a man's dwelling-house, when he was out of the country, null; and that the legal and formal method in such a case was to take forth letters of supplement from the Lords, on a common bill, and to execute the intimation at the market-cross of Edinburgh, pier and shore of Leith.

And yet if he have a family, an intimation at his house may sooner come to his knowledge than that other.

*Vol. I. Page 281.*