

and cited to attend the Lords, in order to punishment, (*supra*, 16th November 1699,) did this day present himself: and, after hearing him, the Lords rejected his excuses, and fined him in 100 merks to the poor, for his compliance in such a matter; and sent him to prison, there to lie during their pleasure. Some of the Lords, who thought his fault and malversation grosser than the rest, did vote "deprive;" but the milder opinion prevailed. Some moved the imprisoning him in Aberdeen, as more exemplary, the thing happening to be done there; and on his return he might deny he met with any censure here.

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1699. December 7. The EARL of DUNDONALD *against* The TOWN of PAISLY.

IN the mutual declarators betwixt the Earl of Dundonald and Town of Paisly; the Earl founding on some reservations contained in their old charters from Abbot Shaw, or the Lord Abercorn, restricting their right to the controverted moss; and the town refusing to propale their writs, and offering to depone they had no writs containing such clauses; and this tending to make them judges on the import of these writs,—the Lords fell on this medium, That they should produce them to the Ordinary in the cause; and if, after perusal, he found they had nothing relative to the Earl's allegiance, then to give them back again to the magistrates; but if he should find any clause tending that way, they allowed him in that case to put them in the clerk's hands; by which method the opening of charter-chests was avoided.

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[*Vide infra*, page 480.]

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1669. December 8. ALEXANDER GRAY *against* WILLIAM REID.

Alexander Gray pursues William Reid, late tenant in Wariston, for payment of his rent, crop 1680.

ALLEGED,—Absolvitor; because I have three consecutive discharges for three subsequent years after that acclaimed; which presumes payment of all precedings,—they not being accepted in any of these reiterated discharges.

ANSWERED,—*Apocheæ trium annorum* is a good defence by the Roman law, and ours; but then they must be all granted by one person, and be total as to the full rent; whereas, here, the first two years are discharged by Cruikshanks, the father, and the third by his son, with consent of his curator; likeas, one of them is only *quoad* the money and victual-rent, but not of the kains, customs, and straw.

REPLIED,—That *pater et filius* being *una et eadem persona*, especially where he is heir, their discharges ought to be conjoined, to the effect to import liberation of preceding years; and Dury observes that the Lords sustained three discharges granted by a minister, whereof two were to the father, and the third was to the son: And, as to the omitting to mention the small casualties in the discharge, that was nothing; for they use commonly to be paid without any receipt in writ.

The Lords considered that the three consecutive discharges, hitherto sustained to infer liberation for precedings, were always where granted by one and