

against *the Creditors of Mountcastle*. *2do*, Mr Robert's wife being the said Lady Drum's aunt, he was her uncle-in-law, and so he acted *contra bonos mores* to make merchandize of her; and, both by duty and relation, was bound to promote her marriage without a bribe; and the Lords have found a step-father ought to take nothing from a step-daughter's husband for making the marriage; and see the like decided in the case of a Tutory, *5th March 1629, White against Douglas*. *3tio*, The bond should be reduced; because, in a communing betwixt them, he declared he would deliver it up, and refer his gratuity to friends; and, instead thereof, gave her a copy to burn, and kept up the principal bond.

ANSWERED to the *first*, There is nothing more ordinary than to have blanks in bonds, and to fill them up at delivery; and it would endanger many writs if that were sustained to be a nullity, that it appears the writ has been *ab initio* blank; so it can only be proven, by the defender's oath, that it was not filled up till after her marriage. To the *second*, It cannot be denied that, as a woman may grant a bond, if perfected before the marriage, so a party may receive a *proveneticum* and gratuity for procuring a profitable marriage; and the Lords did lately sustain the same to *Sir John Cochran against the Earl of Buchan*. As to the *third*, Being a circumvention, the same is denied as calumnious and false.

REPLIED,—Whatever a stranger might take, he who was a relation could not take so exorbitant a reward on the very brink of the marriage; and what was decreed to Sir John Cochran was not a gratuity, but his real debursed expenses.

The Lords ordained the case to be reasoned in their own presence.

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1700. *February 21. JOHN MURRAY against SIR PATRICK AIKENHEAD'S BAIRNS.*

IN a case between Mr John Murray and Sir Patrick Aikenhead's Bairns, a horning being given in by mistake to be registrate, when the debtor had paid and satisfied it; the Lords granted warrant to the Clerk, (seeing it was only noted in the minute-book, and not yet recorded, being quarrelled *de recenti*;) to score it in the minute-book, and not to registrate it, but in place thereof to record this bill and deliverance for his warrant, seeing the denunciation was preposterous and unwarrantable. And this was done to secure him against the certification of the 14th Act of Parliament 1693, importing deprivation: though this takes away the *jus quæsitum fisco*; and the regular method is to relax and take the gift of their own escheat; yet, when the diligence appears evidently to have been illegal, and is not recorded, the Lords have been in use to relieve the subjects of the expensive way of passing a gift through the seals.

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1700. *February 24. LADY SUSANNA LORT against SIR HUGH CAMPBELL of CALDER.*

By articles and indentures of marriage passed in England, after their form, in