

1693. *December 19.* LORD TARBET *against* FRASER, Advocate.

THE Lords, before answer, ordained Mr Fraser to depone how the tailyie now craved to be put in the clerk's hands came to him ; whether he got it from the clerks, or from my Lord Lovat ; for though Lovat's sisters had an interest in it, yet the Lords thought it hard to cause an advocate produce his client's papers in the clerk's hands, if he got it immediately from them, albeit all defences were reserved against delivery. *Vol. I. Page 580.*

---

1693. *December 19.* JOHN DUNCAN, Merchant in Dundee, *against* CRIGHTON of RUTHVENS.

THE Lords repelled the reasons of suspension, that the debt was arrested in the Laird of Nevoy's hands, who was *correus debendi*, and conjunct principal in the bond with Ruthvens ; seeing the arrestment was of an old date, past five years ago, and Nevoy was dead, and no process of forthcoming insisted in ; but, to secure the debtor, Ruthvens, they ordained Duncan, the charger, to find caution to secure them against the arrestment. *Vol. I. Page 580.*

---

1693. *December 19.* FERGUSON of FINNARTS *against* WILLIAM SETON.

FERGUSON of Finnarts against William Seton, for repetition of some money he had uplifted of his, by a right from the Exchequer, when he was forfeited.

ALLEGED.—He was not a donatar, but had purchased and acquired for eight years' purchase, and his signatures and entry had stood him two years more ; and the Act rescissory 1690, restoring forfeited persons, did not allow repetition against buyers, but only against donatars.

ANSWERED.—It bears " donatars and others ;" which must import more than donatars' assignees, deriving right from them.

The Lords thought the cause new ; and, therefore, ordained the reporter, before answer, to try whether he actually paid the eight years' purchase or not ; for, if he only gave bond for it to the Lords of the Treasury, and that was not exacted at the time of the Revolution, then he was liable to restore : but if he had made payment, the Lords would consider how far the payment of a partial price, (though not adequate to the worth of the lands,) would secure him from repetition of sums *bona fide* received and consumed ; seeing Finnarts had got back his lands, and was in possession thereof, and only now wanted thir sums, which he was likewise craving back. *Vol. I. Page 580.*

---

1693. *December 20.* WILLIAM STEWART, Writer in Edinburgh, *against* SIR ANDREW AGNEW of LOCHNAW, Sheriff of Galloway.

THE Lords found, there was no reason to cause Sir Andrew pay any part of