

prejudge our successors ; but, on searching both the Town's records and the books of sederunt, the right was unclear, and both claimed it.

*Vol. I. Page 618.*

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1694. *June 4.* ALEXANDER CROMBIE *against* HIS CREDITORS.

THE Creditors of Alexander Crombie, vintner in Edinburgh, pursuing a roup and sale of his lodging in Edinburgh, on the statute of bankruptcy ; the Lords found it proven to be worth yearly £1000 Scots of rent, and that it might be set at that rate ; and valued it at twelve years' purchase ; though sundry thought that price too high. And for the six market-crosses, the Lords would not make Edinburgh six several parish-kirks, (as it had so many churches,) but only to stand for one parish ; and added the Canongate, West-kirk, two parishes in Leith, and that of Duddingston, to make the other five.

*Vol. I. Page 618.*

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1694. *June 4.* SIR WILLIAM DENHOLM of WESTSHIELS *against* GEORGE LOCKHART of CARNWATH.

THE Lords, having advised the bill and answers of Sir William Denholm of Westshiels, and George Lockhart of Carnwath, they adhered to their former interlocutor, finding the assignation given by Westshiels, to the deceased President Lockhart of Fordel's bond, behoved to be ascribed in payment of the 2000 merks bond which he and Allanton owed Sir George, unless they would condescend on another debt for which this assignation was given ; but found the allegiance relevant, by Westshiel's oath, that it was for another debt.

A debate arose, If his brother Walter's oath ought also to be taken ; seeing he confessed, in the answers, that he gave Walter the assignation blank in the name of the assignee : And, though some alleged it might be a dangerous preparative to take away rights by an interposed party's oath, who was no more but as a servant to carry and deliver it ; yet the Lords ordained him also to be examined anent the cause of it, Whether there was any other bond or discharge in the case ; Westshiels always, in the first place, deponing that he delivered the assignation to Walter, his brother, blank in the name.

The next question was, If Carnwath, having innovated the former bond assigned to him, and taken a new one from Fordel, can be exonerated by offering Westshiels a right to that bond. The Lords generally thought he could not ; but, in regard a prior interlocutor gave Carnwath the election, either of paying or assigning to this new bond ; therefore, before they would alter, allowed him to be farther heard thereon.

*Vol. I. Page 618.*