1694. *December* 26. SCOT of BOWHILL *against* GRIEVE.

MERSINGTON reported Scot of Bowhill against Grieve, tenant to the Duchess of Buccleugh. The reason of suspension was,—I am holden as confessed on a citation bearing me only to be lawfully cited, and not personally. ANSWERED,—Lawfully must import that; especially seeing I have taken the gift of your escheat on that decreet, and it bears annualrent after the denunciation; all which will fall and be lost, if he be reponed. The Lords found this not equivalent to a personal citation, and reponed him; but fined him in fifty merks of expenses. Some were for one hundred merks.

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1694. *December* 27. ERSKINE and CRANSTON *against* MARJORIBANKS of DEDRIGS.

HALTON reported Erskine and Cranston against Marjoribanks of Dedrigs. The said Erskine, with her husband's consent, assigns the benefit of her brother Mr William Erskine, minister of Edinburgh, his executry to Dedrigs; who, pursuing thereon, she compears and gives in a disclamation of the process in her name; and that she did it *ob metum reverentialem*, her husband being *vir ferox*, and interdicted; and that the office of executry was personal, and not cessible.

The Lords thought his interdiction could not stop this assignation, being of moveables only; and the design of interdiction is to secure heritage; and her disclamation could not take place, because the husband could have disponed on it however, it falling under his *jus mariti*: Therefore they repelled the dilator; but allowed her to go on in her reduction of the assignation, as extorted *vi et metu*, as accords. *Vol. I. Page* 653.

1694. *December* 27. DOCTOR ADAM GORDON *against* STEWART of ORCHILBEG.

THE Lords had found, That, while the direct manner of improbation is extant, they cannot come to the indirect; and that, if the witnesses inserted in the writ do adhere, and astruct the same, they cannot enter on the cognition of the indirect articles.

A bill was given in against this, showing the witnesses may be suspect, (as here the party's father and brother,) or may be infamous, or loaded with just grounds of jealousy; and the indirect articles may be most convincing;—as was found, 12*th February* 1679, in *Sir Robert Crichton*, alias *Murray*, his improbation, against *Murray of Brughton*. The Lords resolved to hear this farther.

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