

1699. *February 28 and July 8.* GORDON of INVEREBRY *against* FORBESSES of BALLOGIE, TULLOCH, and BALFLUG.

[See the first part of the Report of this Case, Dictionary, page 194.]

*February 28.*---Trial having been taken on a complaint given in by Forbes of Ballogy and others, against Forbes of Tulloch, and Adam Gordon, (*Vid.* 7th February 1699,) that the said Tulloch and Mr Gordon had razed, vitiated, and antedated a brief taken out of the Chancery for serving him heir, and got the officer to antedate his execution, and swear it was done on fifteen days, whereas it was all carried on in forty-eight hours' time; and had made some of the inquest attest his propinquity of blood, who knew nothing of it; and some of thir particulars being proven, and the custom of the Chancery being pretended, that where none are prejudged, they give out their briefs of an antedate to dispatch the service; with which practice the Lords being much dissatisfied, and not having time to advise the whole, they ordained the said Mr Gordon and Tulloch to be imprisoned till they find sufficient caution to answer to the complaint, and undergo what the Lords shall determine against them, in June.

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*July 8.*---The probation, mentioned 28th February 1699, anent the antedating the brief, by Forbes of Tulloch and Gordon of Innerebry, against the Lord Forbes, Ballogie, and others, being this day advised; the Lords, for discouraging such practices, fined each of the two in 100 merks to the poor, and sent them to prison to lie during the Lords' pleasure.

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1699. *July 26.* WILLIAM OGILVY *against* ALEXANDER ALISON.

MAJOR William Burnet gives in a complaint to the Lords, that Alexander Alison, writer, had borrowed up his bond after it was registrate, and a suspension depending thereof, and sent it up to London; whereupon Straiton, the creditor, had attached him, and put him in the King's Bench, whereby he was damnified in more than £200 sterling. They ALLEGED, for excuse, that the debt was yet resting, and he had given two suspensions upon juratory caution; and, finding him at London, the creditor thought he might call for his principal bond, (extracts not being probative there,) and arrest him on it.

The Lords considered the 38th Act 1685, where bonds cannot be retired out of the Register after six months, and must be booked within a year; and found this an unwarrantable practice, by which the records became insecure, and therefore sent the said Alexander Alison and James Carnegy, Keeper of the Register of bonds, to prison, and fined each of them in 100 merks Scots; but reserved the consideration of Major Burnet's damages, and who should be liable to him, to the conclusion of the cause.

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