

way, and could not be prevented or helped ; without necessity to allege stress of weather : and that he had stowed the ware in a convenient safe place ; and the merchant had changed the same, and put them by the pump. But it was not alleged that the skipper was present ; or whether he showed any hazard in that place.—[See page 212.]

*Vol. II, Page 463.*

1676. *November 15.* EARL of TWEDDALE *against* The LAIRD of DRUMELZIAR.

THE Earl of Tweddale gave in a bill, representing, That Robert Fergushill was adduced as a witness to astruct the verity of a disposition, bearing to be granted by the late Earl to Drumelziar, of certain lands ; and bearing, that the said Robert is writer and witness, and that he had information of several grounds against the inhability of the said Robert ; and therefore desired that he might not be received till the conclusion of the cause.

Which the Lords refused, in respect of their common custom that all witnesses are admitted, unless relevant objections be instantly verified against them ; for, if that cannot be, parties can only protest for reprobators : and, therefore, the Lords ordained the witnesses to be received ; and, if any relevant objection were proponed and instructed, ordained the Ordinary to discuss and admit the same. And further, declared, that if the petitioner condescended upon relevant objections, to be instructed before advising the cause, they would admit the same upon a summary citation against Drumelziar and Fergushill himself.

*Vol. II, Page 464.*

1676. *November 15.* The LAIRD of CUNNINGHAME-HEAD *against* The EARL of LOWDOWN.

THE Laird of Cunninghame-Head,—having procured a joint right to the first apprising of the estate of Lowdown, led by Mr Livingstoun his son and heir,—pursues for maills and duties effeiring to his proportion ; and several interests of other parties being produced, there was an auditor named to discuss the same. There is now a supplication given in for Cunninghame-Head, representing, That the Earl of Lowdown's advocates, by dropping in of seasines of several parties from time to time, without warrant from these parties, had delayed the process for several years ; and therefore desired that no further delay should be upon that account.

The Lords ordained intimation to be made, that all parties pretending interest might produce such interests as were in town ; and that none should be admitted but upon the pursuer's declaring, upon oath, that they were employed by the parties to whom these rights belonged ; with certification, that no other should be admitted, before sentence, to stop this decret.

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