

in law was only *de effractoribus carcerum*, whereof they were not guilty. This suffered some debate with the Lords; which seemed strange. At last they found them liable, being put in for crimes, and not for civil debts; and therefore repelled their allegiance.

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1680. *July 15.* HAMILTON *against* PATRICK CUNNINGHAM and his WIFE.

IN Hamilton's improbation against Mr Patrick Cunningham and his wife, Lord Saline found the husband's offering to abide at the truth of the disposition offered to be improven was not sufficient, though the rights thereof were now wholly his, *jure mariti*: but since the disposition was pretended to be granted by her former husband to his wife, now married to Mr Patrick, that she ought principally to abide at the truth of it.

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ACT ANENT ADMISSION within the BAR.

THE Lords make an act of Sederunt, that none be permitted to come within the bars of the Inner-House, of whatsoever condition or quality. This was made upon Duke Hamilton's account, in his cause with the Town of Linlithgow. But they complimented the Duke so far as they declared that they dispensed with it in his person, because he had been admitted to enter before; but cautioned it as no ways due.

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1680. *July 21.* ARCHIBALD TURNER and JAMES PILLANS *against* HUNTER.

MR Archibald Turner and Mr James Pillans having, as apprisers, set a tack of the lands of Eastcraig to one Hunter for payment of six chalders of victual yearly, they charge him for the tack-duty of the lands. He suspends on this reason, That Patrick Hepburn, his former master, did violently take his farms from him: which being a *vis major* beyond his power to resist, it must assoilyie him; it being no less than *terror mortis, et justus metus qui cadere potest in constantissimum virum*, having threatened to kill him, and robbed his barn-yard.

Castlehill repelled this reason, seeing the tenant must be liable to those who set the tack to him: and if his master robbed his corns violently, he may either pursue a riot against him criminally, or pursue him civilly for a spuilyie, and recover them again with the violent profits. And having reported it to the Lords, they likewise repelled it as irrelevant.

This seems exceeding hard for poor tenants, whose rusticity and ignorance *in apicibus juris* is very excusable, there being no collusion betwixt him and his former master.

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