

ority,) and ordain her to pay to James the expenses of his adjudication and infertment.—But as to this he will be found more than paid by his intromissions already, which must be ascribed *primo loco* to his expenses. See Jan. 1672. Several of the Lords thought there was no informality at all, but were for sustaining her adjudication simply. *Vide infra*, 30th July 1680.

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1680. *July 30.*—In the action Allan against Ker, (9th July 1680,) her charge to enter heir having been produced, with the rest of the grounds of her decret of adjudication, and being objected against as vitiated and informal, and taken once or twice to interlocutor, and at last being tint out of the process by the negligence of the clerk; the Lords, upon a bill, ordain all parties suspect or interested to be examined anent the abstracting of it. Whereupon the parties their advocates and agents being examined, they denied that they knew what was become of it; but deponed anent the tenor of it, (but knew not the witnesses' names in the execution,) and that they had frequently seen it.

The Lords having considered this, they found,—partly by the depositions taken of parties and witnesses, with the second extract of the general charge to enter heir taken off the signet, and copy of the execution produced, and the decret *cognitionis causa* following on that charge to enter heir, and narrating the tenor thereof, with the date of its execution and the name of its messenger-executor; as also the decret of adjudication produced, and Pitmedden's former reports relative to this same charge; and the recency in their memories of what was then done when this charge was then quarrelled;—they find the tenor of the said general charge to enter heir at the instance of the said Agnes Ker against umquhil John Stevenson, and executions thereof, sufficiently made up, verified, and proven. And this summarily on the grounds foresaid, without putting her to a new process, in respect of their private knowledge, and that it was yet recent in their memories. And the Lords declared the second extract or copy of the execution now produced, (albeit the same wants the witnesses' names,) shall make as much faith as the principal as to the interest of the said Agnes Ker allenarly, but not of Mr John Hay.

It is now a usual practice of the Lords to make up, upon a bill, writs lost out of processes, where they have been seen and produced, and lost during the dependance. Yet thus a false evident may be produced once, and purposely lost, and then the tenor of it made up; which tenor cannot be improven, the principal being wanting: and which trick Haddington, in a decision, *21st June 1611, Lady Dunbreak*, tells us was done in his time; but see him *4th and 6th March 1612, Lochinvar*.

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1680. *July 31.* ANENT the TOWN of EDINBURGH'S IMPOSITION ON ALE.

THE Lords of Session gave their consent to the new gift of imposition granted by his Majesty to the Town of Edinburgh, for twenty-two years, of two pennies Scots upon every pint of ale sold within the Town; and the advocates (whereof few were present, being the last day of the Session,) being called in, and this being intimated to them, and they not protesting against it, nor opposing it, their silence was reputed for a sufficient consent. The reason why the

Town required the assent of the College of Justice was, in respect they had the Town, by contract in 1669, obliged never to seek a renovation or continuation of that gift. *Vol. I. Page 112.*

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1680. *July 31.* WILLIAM MURRAY, Advocate, Petitioner.

MR William Murray, advocate, having offered to discover, *ad levamen et exonerationem conscientiae*, that he knew his brother, the tutor of Stormonth, had bribed and suborned witnesses in Annandale and Sir Robert Crichton's affair; the Lords, in regard he was not able to come abroad through indisposition of his feet, ordained three or four of their own number to go to his chamber, and examine him *ex officio* thereupon: but thereafter John Murray, the tutor, having assured the Lords that he was hypochondriac and melancholy, they appointed him first to be visited as to the condition of his health and temper of his body; and he was found to be furious and deeply melancholic.

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1680. *October.* SEATON of CARISTON'S DAUGHTERS *against* Their FATHER and his CREDITORS.

SEATON of Cariston's two Daughters raised a libel for aliment against their Father and his Creditors. The Lords considering that they were come to age, and that their father offered to entertain them in his own family, (though they affirmed that he had used them most barbarously,) referred them to the Judge Ordinary, and recommended to them to go home and stay in their father's house.

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1678 and 1680. COCHRANE of RUCHSOLES *against* ENTERKIN, CARLETON, and OTHERS.

1678. *February 2.*—THERE is a reduction and improbation pursued by Cochrane of Ruchsoles, as heir to his father, (who had appraised some lands in Galloway and served inhibition,) against Cathcart of Carleton, Enterkin, Sir John Cochrane of Ochiltree, Hugh Wallace, writer to the signet, and the other possessors of the appraised lands.—See thir parties, *6th November 1680. Vide supra, numero 681, [page 207.]*

ALLEGED,—They would not take a term to produce to him; because they offered to prove they stood infest publicly and in possession, and, he nor his father not being infest, he could not force them to produce their rights whereon infestment had followed.

ANSWERED, *1mo*,—Ought to be repelled, because a dilator not verified. *2do*, He had charged the superiors with horning to infest him, *viz.* my Lord Cath-