

1683. *January 16.*—The case between Sir Alexander Forbes of Tolquhon, Dalgard, and Johnston, (*vide* 14th July 1681,) being heard in presence; the Lords found the letters orderly proceeded against Tolquhon, in respect of the two decreets *in foro*, and his bond of corroboration following thereon; though he was in prison when he granted that bond, and though the charger's husband had not fulfilled his part of the minute of contract; but, in regard he found his own inability to do it, he had discharged it. But she was not a consenter, and it did not appear she had any other provision, otherwise it would have been *donatio inter virum et uxorem*, and *tacite* revoked by his discharge.

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1683. *January 17.* MARY and ——— MAXWELLS, Daughters to Drumcoltran, *against* IRVINE and CARLYLES.

THE Lords, on Saline's report, modified twelve bolls of victual to the pursuers, for the year 1682, as an aliment which their father was in possession of during his lifetime, as the excrescent duties of the lands more than paid Irvine the annual-rent of his wadset money. But the Lords declared, if the said two pursuers did not bring their count and reckoning to a close within a twelvemonth, they would not continue the said aliment to them any longer.

Then it was controverted, whether the boll should be Linlithgow measure, which is the common standard for the whole kingdom; or Galloway, where the wadset lands lie, and is much larger than the Linlithgow.—It will clear it much, which of the two was paid to their father.

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1683. *January 19.* WILLIAM CLERK and EDWARD WRIGHT *against* The EARL OF ANNANDALE.

MR William Clerk, and Mr Edward Wright, advocates, as having right to Ruthven of Gairden's wadset on the Earl of Home's estate, pursue this Earl of Annandale, as representing his good-sire, cautioner in that wadset.

The Lords, upon Nairn's report, find Tillibairden and John Elies's comprisings, now purchased in by Annandale, null, as led for some annualrents, now instructed to have been paid before the leading it. But, in regard of the pursuer's consent, they sustained and allowed the same *quoad* principal, annualrents, and true debursed expenses.

A bill having been given in by Annandale against this; the Lords having considered it with Mr Clerk's answers and condescendance, they, on the 27th of January 1683, adhered to their former interlocutor, except as to the first article; they sustain the Earl of Tillibairden's apprising, not only as to the principal sums in the bonds, and their annualrents, but also as to the necessary debursed expenses; but they refused to allow compensation against Elies's comprising for the £480 received by Alexander Lessley, his cedent, to be given to auditor Thomson or Troutback, and the other receipts granted by Alexander Lesley; except Clerk, the pursuer, will offer to instruct that these tickets and