

onerous causes, and *in rem versum* to the minor; (*vide* 15th January 1684;) and he had succumbed, and the term was circumduced against him, and the minority proven. ANSWERED,—James Gib was not concerned in this reduction, farther than that he gave John Thomson a bond for 700 merks, as the price of the lands disposed; and, seeing the land was evicted, the bond became null, *causa data causa non secuta*.

The Lords reduced the disposition, and declared the bond null; and ordained it, with a discharge, to be given up, and also the disposition to be given back.

Then William Leggat craved a visitation of the houses, to try what condition they are now in, that they may leave them in as good condition at the expiring of the tack; because they were so slightly built with cat and clay, that they would continue little longer than the space of the tack. ANSWERED,—There has been a visitation already, and this is not competent *hoc loco*, but at the end of the tack; and that all houses naturally, in process of time, are deteriorated.

The Lords found no necessity of appointing a visitation of the houses at this time; but declared the defender James Gib, at the expiring of the tack, shall be obliged to leave the houses in as good condition as other tenants use to do at their removal; but would not determine the manner thereof.

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1685. *December 2.* COMMISSARY MONRO, Petitioner.

THE Lords, on a bill, and his taking the test, re-admit Commissary Monro to be an advocate, being now pardoned for high treason and the conspiracy. This gave a general discontent to the advocates; for though the remission red-integrates, *yet nota inuritur, nec tollitur infamia, sed pœnæ tantum gratiam facit; l. 3, C. de Generali Abolit.* And the Lords should be more tender of the Faculty's reputation, by which most of themselves have risen, unless they were commanded to do it by superior powers.

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1685. *December 2.* JAMES LITHGOW *against* JAMES HAMILTON.

JAMES Lithgow, merchant, his charge on the indentures, against James Hamilton, was reported by HARCUS. The Lords found, he being bound prentice to Delchamp, a Frenchman, in the art of making paper, he was not obliged to stay, Delchamp having deserted; unless James Lithgow, the charger, will offer to prove, by his oath, that he was the person who truly indented with him, having only assumed Delchamp to be his partner, and that he alone entertained him in bed, board, and clothing, and was truly his master, and that Del-

champ was made the party-contractor only to oversee his diligence and attendance.
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1685. *December 8.* MARGARET BECK and THOMAS BOOG *against* WILLIAM BECK, Factor for Edward Beck.

MARGARET Beck and Thomas Boog, her curator, pursue William Beck, as factor for Edward Beck, her uncle and tutor, to exhibit and deliver up her whole writs. ALLEGED,—*1mo*, The tutor is not called, as he ought to be. *2do*, They cannot be delivered up till count and reckoning, seeing they are the instructions both of charge and discharge, and he must be refunded of what he has expended. *3tio*, By the father's disposition, Edward is substituted next heir, failyieing of her, (who is blind and tender;) and therefore he has an interest to retain them, till they find sufficient caution, not only *tutorio seu curatorio nomine*, but also *ad omnes effectus*, to refund the goods and estate to the said Edward, in case she decease without heirs.

ANSWERED,—Thir defences are competent against delivery, but not against exhibition; and they cannot find caution till they have inspection; and craved he may count and reckon; and offered to prove he has as much *intus* as will pay all his expenses.

The Lords ordain William Beck, the defender, to depone and exhibit the writs called for; reserving to him and Edward, his constituent, all their lawful defences against delivery: and find there is no necessity to cite his said constituent now, because the factor has proponed peremptory defences: and ordain the curators to find sufficient caution *curatorio nomine*: and the defender to produce the account of his charges and depursements, with the instructions thereof; as also, the account of his intromissions; to the effect it may appear if there be any balance due to him; and he proving there is a balance, then allow the pursuers to prove that *intus habet* by intromission with the pupil's means and estate: and ordain all this to be proven before delivery.

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1685. *December 12.* The POOR of the WEST KIRK *against* BAIRD, DEAN, &c.

THE cause of the Poor of the West-kirk against Bailie Baird, Dean, and others, is advised: and the Lords decerned them to repay, proportionally, the 500 merks which the Kirk-session advanced out of their poor's money in 1650, to reëdify some seats in the church, then broken down by the English; reserving relief against their authors in the lands.
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