

The pursuer had, by a paper, restricted it to 4000 merks. *2do*, In payment of part, he had taken an assignation to some victual; and referred both to oath. Scatsbuss deponed to the first, he gave a declaration, in 1681, that if, within a year, they paid him 4000 merks, he should accept it; and being put in Hepburn of Beinston's hand, and not fulfilled, he, four years after, gave it him back, and he cancelled it.

ALLEGED,—This was *pactum legis commissoriæ*, and still purgeable for 4000 merks.

The Lords refused to restrict him: but, as to the second, of the victual, they ordained him to be reëxamined, whether it was for this debt or another. See the like decided in Stair, *20th February 1680, Jameson. Vol. I. Page 440.*

1687. *January 15.* BAILIE BAIRD *against* HAMILTON of FALAWHILL.

[HAMILTON of Falawhill owing Bailie Baird a sum of money, and he having received some of the rents of his lands for his annualrent, he offered to improve one of the receipts as false: but the Lords, after trial, sustained the discharge.

Vol. I. Page 440.

1687. *January 18.* A SHETLANDER *against* ———.

A SHETLANDER pursues for maills and duties of some lands in Shetland, on a tack set to him by this King of Denmark's father. ALLEGED,—This was treason for the pursuer to take rights from a foreign Prince, and a disclaiming of our King. ANSWERED,—The King of Denmark might be our King's vassal in thir lands, even as a nobleman or gentleman, holding of the King, might give a charter to his sub-vassal. But, in Shetland, they have no infestments, but only allodial rights; and the Crown of Denmark of old had right to it and Orkney.

The Lords ordained the tack and process to be razed and destroyed, and the pursuer to be insisted against for treason.

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1687. *January 22.* SIR JAMES COCKBURN *against* LAWRENCE POWER and
—— DEANS.

THE case of Sir James Cockburn against Laurence Power and Deans, was advised. It was a pursuit against the heir of a cautioner for a sub-collector of the customs, excise, and bullion, in 1662, and thereafter, to count and reckon, when all the parties are now dead; wherein allowance was craved for his salaries, which they alleged were to be presumed to have been paid, though counts were not yet cleared betwixt them; and they were charged with twelve-pence for the ounce of bullion; whereas, by Act of Parliament, it was but nine-pence.