

1687. *July 27.* ALEXANDER YEOMAN *against* His CURATORS.

ALEXANDER Yeoman gives in a bill, representing, that, though he had an opulent fortune of 100,000 merks, all that his curators allowed him when he was at schools and colleges, was 1000 merks by year; and that now, being within two years of his majority, he was to improve himself in such qualities as suited a gentleman, and resolved to travel abroad; and therefore craved the Lords would authorise his curators to advance him money, keeping within the annual-rent of his stock, for preventing his borrowing of money, or otherwise contracting debt with merchants, &c. who would not refuse him ware; which drives minors to unfrugal courses, against which the *S. C. Macedonianum* was made.

The Lords ordained the curators to give him 2000 merks *per annum* while he staid within the country, and, when he went abroad, 3600 merks; and this act was designed for their warrant.

*Vol. I. Page 471.*

1687. *July 27.* SMART *against* HYSLOPS and SIR WILLIAM SHARP.

THE case of Smart in Fisheraw against Hyslops in Mountainhall and Sir William Sharp, being reported by Saline; the Lords sustained the declarator that the bond, granted by umquhile Sir William Sharp to the Hyslops, came in place of a former bond granted by him to their father, and which was assigned by him to them, and was expressly burdened with 500 merks payable by him to the pursuer Smart, his oye, and that therefore it ought to be burdened in the same manner; and therefore declare, and prefer the pursuer, as to the said sum to the creditors of Richard Hyslop, arresters of this debt, being *in græmio* of Richard's own right.

*Vol. I. Page 471.*

1687. *July 29.* The DUKE of HAMILTON *against* WILLIAM LAURIE, Tutor of Blackwood.

DUKE Hamilton (who took up much of the people's time with his causes,) pursues William Laurie, tutor of Blackwood, for his teinds. He ALLEGED, By a contract with the Marchioness of Hamilton, they were rentalled to 40 bolls, and he had obtained a valuation of a sub-committee thereon. ANSWERED, —He bruiked not by that; but, conform to his bond in 1653 to the present Duchess, he had acknowledged that he bruiked by a disposition thereof from Duke William, which he had vitiated.

REPLIED, —Offered to prove, by the Duchess and Duke's oaths of calumny, that this bond was but in trust, to exclude the sequestrators. DUPLIED, —This was *factum alienum* to the Duke, and so he could not depone thereon (not being then married to her;) and he would not suffer his Lady to depone to his prejudice.

TRIPLED,—Her oath was craved, not to constitute a debt on her husband, but to liberate from one.

The Lords, on Tarbet's report, ordained them both jointly to give their oaths of calumny; at which the Duke, being dissatisfied, procured it to be heard in presence. *Vol. I. Page 472.*

1687. July 29. The CHANCELLOR *against* JOHN BALLANTINE.

THE Chancellor pursues John Ballantine, keeper of the advocates' bar, for the maills and duties of some lands. He defends on a charter and seasine from the late Argyle. ALLEGED,—It was depositated, and Sir Colin Campbell of Arbruchel has, on oath, declared the terms, and that the Earl had recalled it. ANSWERED,—It did not appear that Sir Colin was depositary, (which ought to have been first proven;) and his charter and seasine could not be taken away by a single testimony, but by his own oath or writ, he being in possession by virtue thereof.

Yet the Lords found the charter was only a depositated evident; and annulled the seasine. *Vol. I. Page 472.*

1687. July 29. CHARLES HOME of AYTONE and SIR WILLIAM PURVES *against* JAMES KEITH.

See the prior parts of the Report of this case, Dictionary, pages 13,253, 9,500, and 354.

MR Charles Home, of Aytone, as having right, from Sir William Purves, his father-in-law, to that debt owing by the Earl of Marishall, (mentioned 20th December 1683,) insists against Mr James Keith, writer; and it was debated this day. *Vol. I. Page 472.*

1687. July 29. LAUDER, &c. *against* TROTTERS.

COLIN Lauder, George Mosman, and William Paton, their bill against Janet Trotter was read, craving up the goods dispoed by her since she had taken a *cessio bonorum* on her consigning the said disposition, and that she ought not *lucrari* by retaining these goods.

The Lords ordained her to be pursued by way of action.

*Vol. I. Page 472.*