

1693. *January 11.* ROBERT SKINNER in Craigsad *against* WALTER SCOTT of Lethem.

ROBERT SKINNER in Craigsad, against Walter Scott of Lethem. The Lords repelled Lethem's reduction and action of repetition, seeing he had homologate the sentence by payment: And though payment in obedience to a distress be no homologation, yet here he had been silent without reclaiming since 1686, and was holden as confessed by the former decreet; and therefore the Lords refused to repon him now. *Vol. I. page 544.*

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1693. *January 12.* SIR GEORGE SKEEN of Fintry, *against* CUSHNY, and BANNERMAN of Elsieck.

SIR GEORGE SKEEN of Fintry, late provost of Aberdeen, against Cushny, and Bannerman of Elsieck. The Lords found the registration of a bond, without a charge of horning, a sufficient distress whereon a cautioner might pay; and that it was included in the nature of relief only to be relieved *in quantum* they have actually paid, and no farther. But here it being questioned, how the cases should be proved against Sir George, a singular successor, the Lords thought, seeing he derived his right from Robslaw, the common debtor's brother-in-law, and so was obliged to know, that his author's right flowed *a conjuncta persona*, they, *ex officio*, ordained the cautioners, his authors, to be examined on the eases they got, and what they actually paid, and that in presence of the creditors; for the Lords found they could not examine both, and that it was safer to take the cedent's oath than the creditors here. *Vol. I. page 544.*

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1693. *January 12.* CAPTAIN JOHNSTON *against* LENNOX.

CAPTAIN JOHNSTON, Provost of Dumfries, against Lennox. The Lords repelled her allegiance, that she had renounced her liferent to her brother, to secure it, because she was in hazard for conventicles, and had possessed seven years since her renunciation; which they found could not give her the benefit of a possessory judgment; and that, her brother having disposed it to the Captain, she had only action against her brother the trustee. *Vol. I. page 544.*

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1692. *Dec. 22.* and *Jan. 12,* 1693. SIR GODFREY M'CULLOCH'S CREDITORS *against* The DUKE OF HAMILTON.

1692. *December 22.*—PATON, Maclellan, and other creditors of Sir Godfray M'Culloch of Ardwall, against the Duke of Hamilton.