

mualrents to be also brought in and discounted. What moved them was, lest by this way there was a design of cutting off these two principal sums; for they were not preferable rights on the subjects they affected; and if he got them not paid this way, the Provost might be cut off; and Innerighty being in a weak condition, what was competent against him, was thought reasonable *secundum bonum et æquum* to meet my Lord Carse, Sir Peter Lyon, his brother-in-law, and his assignee.

*Vol. I. page 545.*

1693. *January 18.* ELIZABETH NEILSON *against* ARMOUR.

The Lords found the compensation founded on, in the decret, not a liquid ground, seeing it proceeded on referring it to the party's oath; whereas if he had intimated it to the cedent, he would have proven it by witnesses; and that the Judge sustained extrinsic qualities, which should have been otherwise proved than by his oath.

*Vol. I. page 546.*

1693. *January 18.* The LADY WAMPFRAY *against* IRVING of Woodhouse.

The Lords found that the pursuer (though he libelled on a warning) might amend the libel, and add that farther conclusion to it, that being owing several years bygone rents, he behoved either to remove, or find caution for payment of the bygonen and in time coming; especially seeing they had gotten a sight of the process since the adding of that member: though some thought that this could not be done after debate, and objections had been made against the warning; and refused to take in his reasons against the tack, that he was minor and circumvened, the lands set to him in tack being a part of his own property; because there was no reduction raised by him on that head.

*Vol. I. page 546.*

1693. *January 18.* OGILVY of Innerquhairty *against* CARNEGKY of Bracky.

A superior's donatar of a liferent escheat being pursued in a reduction and improbation of the horning, it was ALLEGED, he was not bound to produce the principal horning and executions when they were not at his own instance, but done by third parties; and that all he was obliged to do was only to produce extracts: and that it was so found, in 1683, between Bailie of Littlegill and Douglas.

ANSWERED,—That false executions of horning might escape all trial and discovery, if this held.

The Lords resolved to hear it in their own presence.

*Vol. I. page 546.*