

1693. *February 10.* MR. JAMES ANDERSON *against* MR. JOHN ELIES, his father-in-law.

THE Lords stopped the delivery of the writs till the former depositions, about the altering and taking out of a sheet and writing it over again with larger faculties to revoke, were produced, and the witnesses re-examined thereanent; in regard the former probation was *res inter alios acta*, being between Sir James Hamilton and Elleiston.
Vol. I. page 558.

1693. *February 10.* GEORGE WEIR, brewer in Edinburgh, *against* CAMPBELL of Carrick.

THE Lords found the bond given the son by Carrick was alimentary, and so could not be assigned by him for terms yet to come; but sustained his assignation for bygones, in regard the assignation bore, that Weir had alimented him; and found the discharge by the son to his father before the assignation was good and valid *quoad* these terms that were then passed at the time of the subscribing the discharge, but not for what he had paid by advance before it was due.
Vol. I. page 558.

1693. *February 10.* THOMAS GOODWILLY *against* SKEEN of Hallyards.

MR. THOMAS GOODWILLY, schoolmaster of Strathmiglo, *against* Skeen of Hallyards, for a mortification out of the lands of Pitcairn of Pitlowr, which Hallyards had bought.

The Lords found, though it was clad with forty years possession, yet it was not real, nor of the nature of a servitude to affect the ground of Pitlowr *against* a singular successor.
Vol. I. page 558.

1693. *February 14.* MARGARET BOGLE *against* WILLIAM NAPIER.

MARGARET BOGLE *against* William Napier, cautioner for James Armour, her children's tutor. The Lords found the cautioner liable for Armour, the tutor, to make up the relict's third, seeing she had renounced the executory to him, and his intromission was *per universitatem*, the relict's share not being yet distinguished nor separate from the other two parts; for they thought, if it had been laid aside and separate, then it would have been no part of the tutor's administration to have meddled with it. This was only carried by the President's vote; and they who were of the contrary opinion, argued, that a cautioner for a tutor only engaged