

to take the principal out of the register, and deliver them to Westshiells, if they were not booked, and so could not be gotten back; for the Lords thought it humour on both sides, and *malitiis non est indulgendum*. *Vid.* act 18th Parl. 1689, *in fine*. *Vol. I. page 545.*

1693. *February 16.*—At examining the witnesses about taking out the extracts of these bonds which the Earl of Balcarras was decerned to deliver up to Denholm of Westsheills, mentioned 13th January last; Mr. Charles Gray, advocate, refusing to answer this interrogatory, whether he was present at any consultations where the Earl was advised to take out no extracts;

The Lords found he was not bound to answer this, being to cause him detect his client's secrets, and against his fidelity; though on the other hand it was more against the duty of a Christian advocate to give fraudulent advice to their clients, how they may frustrate or defraud their creditors. *Vol. I. page 562.*

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1693. *February 16.* LIEUTENANT MACKAY *against* ALEXANDER MONRO's Relict.

THE Lords allowed Lieutenant Mackay to get up a trunk-valise, which General Mackay left with Alexander Monro, from his relict, upon his finding caution to make it forthcoming, and to secure her, conform to an inventory thereof to be made. *Vol. I. page 562.*

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1693. *February 17.* LAURENCE OLIPHANT *against* MARY HEPBURN, and OLIPHANTS, her Children.

THIS was a reduction of an additional portion of two or three thousand merks, that Laurence Oliphant had given to the eldest son of the first marriage, on this reason, that he had got to the full what is provided by his mother's contract, viz. 5000 merks, and that the second contract provided all the conquest to the second children, and therefore he could not take it from them.

The Lords found these clauses of conquest did not impede rational deeds, nor cut off the paternal power of disposal when it was moderate; and they found this provision rational and moderate, and therefore sustained it.

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1684, 1685, 1686, and 1693. JAMES SUTHERLAND and GEORGE WEDDERBURN, *against* Bailie JOHN JOHNSTON of Polton.

1684. *November 14.*—IN the case of James Sutherland and George Wedderburn, his son-in-law and assignee, against Bailie John Johnston of Polton, it was