

complexly. And the Lords considered, that they had forced them to debate the point of right; therefore, they resolved to begin with it. But then it occurred, they had not an *idoneus contradictor* in the field; for the Duke of Lennox being heritable admiral, and not called, they could not judge on his right, on the partial production made for him by Mr William Erskine, without his special mandate, (being out of the kingdom,)—*viz.* the king's letter in 1628, which was never perfected; and the ratification of Parliament in 1633, which gives no new right: therefore, all they could do was to find the Chancellor's right the best, for any thing yet seen. But this preference being of no value, they were allowed to be farther heard; and it was argued, whether such offices could have the benefit of a possessory judgment; for though such escheats occur but rarely, yet they had the daily exercise of the jurisdiction, by other acts of holding courts, judging prizes, granting passes and cockets, &c. *Vol. I. Page 551.*

*February 17.*—In the case between the Earl of Tweeddale, Chancellor, and Mr William Erskine, about the whale, mentioned 26th January 1693, the Lords having advised the acts of possession adduced for the Chancellor, to prove he had exercised a jurisdiction of admiralty in his lordship of Dunfermling, and interrupted the high admiral's right; the Lords found his deeds of possession proven: though it was alleged they were, by his rights, as lord of the regality. For the Lords considered, where a man has two titles, the possession is always to be ascribed to that whereunto it most naturally belongs; and so found these fines and acts of Court were as admiral. This carried only by the President's vote. *Vol. I. Page 562.*

*February 23.*—The Lords having advised the value of that whale, controverted between Mr William Erskine and the Chancellor, as mentioned 17th current, they decerned for 700 merks, as the price the Chancellor had sold it at; but with this quality, that if Mr William instructed that he got no more for it at the roup but 500 merks, they restricted it to that price.

*Vol. I. Page 564.*

---

1693. *February 23.* The DUKE of HAMILTON *against* JAMES YOUNG, his Chamberlain.

THE Lords found the mill-rent differed here from land-rent, and that the discharge of his accounts, which he got in 1683, did not extend to, nor comprehend a discharge of his intromissions with the rent of this mill for the year 1684; though it was alleged, that what was grinded in the year 1684 behoved necessarily to be but the corns of 1683, and so it was a year behind. Which the Lords repelled, having considered his entry and the custom of the place.

*Vol. I. Page 565.*

---

1693. *February 23.* DAME MARY ERSKINE, Lady Ardoch, *against* SIR PATRICK NISBET of DEAN, the LADY ROSLINE, and COLONEL RAMSAY.

In the report, Dame Mary Erskine, Lady Ardoch, *against* Sir Patrick Nisbet