

November 9.—Betson of Pitkenny, and the other creditors of John Macky of Donloch, mentioned 10th February 1693, gave in a bill against Mr Charles Mackinnon, assignee by Macky's relict, reclaiming against an interlocutor sustaining her additional jointure against the creditors' reduction on the Act of Parliament 1621, as in defraud; in respect of this answer, that, at the time of setting that tack, he was responsal, and able to have paid all his debts. Which the Lords sustained and admitted to probation; seeing, by debts afterwards contracted, he became insolvent, and that it ought to be a visible estate, not only at the time of the tack, but also at his death; especially seeing *donationes, stante matrimonio*, were unfavourable, and revokable, not only by express and explicit deeds, but even by tacit ones.

And, therefore, the Lords ordained that point to be farther heard in their own presence, if the contracting posterior debts, so as to render him insolvent, would amount to a revocation, though he had an estate sufficient to bear all at the time of his giving that additional provision to his wife.

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1693. *November 10.* SIR WILLIAM CUNNINGHAM of CAPRINTON *against* SINCLAIR of MAY.

ON a bill given in by Sir William Cunningham of Caprinton, and other creditors of Sinclair of May, bearing, That he retarded the roup of his estate, by hindering his tenants to depone for constituting the rental, and therefore offering to refer it to his own oath,—the Lords, for preventing all collusion in making a false rental either too high or too low, first caused intimate it to the creditors; and, if none objected, they inclined to take his oath thereanent; and, if he declined, then to hold him as confessed on the rental given in; or to give the creditors a new commission to prove, in their option.

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1693. *November 11.* SIR JOHN SINCLAIR of LOCHEND *against* _____.

SIR John Sinclair of Lochend, pursuing _____, for a debt, and they referring to his oath that some of it was paid; he deponed that he had got some annualrents, but knew not how much, not having marked it by any writing beside him; but that he gave a receipt, and he is content to allow whatever they produce.

The Lords, not knowing what to make of this oath, decerned against the debtor for the whole, (seeing he did not produce any partial receipts;) but ordained Sir John to find caution to repay what afterwards they should instruct he had got, by receipts under his hands, with annualrent from the payment.

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