

1711. *January 31.* WILLIAM RAMSAY, Petitioner.

RAMSAY, Earl of Dalhousie, having gone alongst with his regiment to Spain, and died there; William, his cousin-german, takes brieves out of the Chancery to serve himself heir-male to him *cum beneficio inventarii*, conform to the 24th Act 1695. The last Earl had been persuaded by his mother to dispone his estate and honours to his own sister, failyieing heirs of his body. Against which it was objected, that the title could not be conveyed unless the Queen had accepted the resignation, and conferred them of new, which she had not done; and as little could he dispone the lands and estate, because he stood interdicted, and a quorum of his interdictors had not consented. The present Earl, for perfecting his right, made up inventories; but the Sheriffship of Mid-Lothian being vacant, by the death of the last Earl, who was Sheriff-principal of that shire, he knew not where to apply, seeing the foresaid Act of Parliament requires these inventories to be made before the Sheriff where the lands lie; and that he, or his depute, record the same in his books, and give forth extracts thereof. And this being an event he could not foresee, law must have a remedy for this defect: and therefore he gave in a bill to the Lords, as the common judicial fountain of justice, who, by their pretorian power, can only supply these failures, that they might appoint some persons in place of the Sheriff to subscribe his inventories, and to order their recording in the Sheriff-court books of Edinburgh, in the terms of the Act of Parliament, that his service may be no longer delayed. It was instanced that, in Sir John Erskine of Alva's service, the Sheriff of Stirling being then deceased, the Lords authorised the Provost of Stirling to supply his place, in 1696. But, in a later case, where the Earl of March was served heir, he being himself Sheriff-principal of Tweeddale, the Lords directed their warrant to Blackbarony for that special effect.

In this case of Dalhousie, the Lords being informed that the Queen had given a commission to the Lord Balmerino, to be Sheriff-principal of Mid-Lothian, and he had named the Master, his son, and Mr Thomas Rig to be his deputes; the Lords empowered any of them two, on their taking the oaths, to sign Dalhousie's inventory in the terms of the Act of Parliament. Which being done, he was accordingly served heir *cum beneficio inventarii* to his cousin last infest.

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1711. *February 10.* ANNA PATERSON, Lady Craiglockhart, *against* BURTON.

GEORGE Porteous of Craiglockhart, herald painter, sets a tack of his lands of Craiglockhart to one Burton, for L.1000 Scots of tack-duty, for thirty-one years; but with this quality, that if George himself should think fit to dwell in Edinburgh, and not in the mansion-house of Craiglockhart, the tenant, in his absence, might possess it, without paying any additional rent for it, except the keeping a horse and a cow at grass and fodder, both summer and winter. George afterwards repairs the house, making it more convenient than formerly;