

gative Court: and there cannot be an instance given of any money lying in England, that ever was confirmed by a Scots Commissary. Yet we say *mobilia sequuntur personam* where he dwells; but Sir George Lockhart said, our law could not force money abroad to be confirmed here. *Vol. I. Page 224.*

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1683. *March 9.* CHARLES FARQUHARSON *against* FARQUHARSON of INVEREY, his Brother.

In this case Pitmedden refused to admit creditors to compear for their interest, to compete and propone defences, or stop the pursuer in his action upon the passive titles for constituting the debt, or in his adjudication; but reserved these to the action for maills and duties: but where it was simply declaratory for constitution of the debt, or upon the warrandice of the father's disposition, he would not admit their interest *hoc loco*. *Vol. I. Page 224.*

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1683. *March 10.* JAMES DALE, and — SYBBALD, his Wife, *against* LAING.

THE Lords found no damage proven by Laing's pasturing on the pursuer's land; but, in regard the witnesses had deponed upon her tilling and riving out the march-balk, they appointed Forret, who lay nearest to it, to visit in the vacance, and to consider the damage and to report. *Vol. I. Page 224.*

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1683. *March 13.* HENRY WALWOOD and — STEVENSON *against* EDWARD GILLESPIE and JOHN SCOT.

HENRY Walwood and Stevenson's reduction, *ex capite inhibitionis*, against Edward Gillespie and John Scot of Vogrie, being reported by Forret; the Lords most justly found, that, the debtor's children being by their mother's contract of marriage in effect heirs of provision to him, (though it was provided to the bairns of the marriage,) they cannot quarrel the rights their father made to the defenders, his lawful creditors; albeit these rights are granted after the inhibition used at the children's instance against their father, upon the mother's contract of marriage. *Vol. I. Page 225.*

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1683. *March 13.* ABERCROMBIE *against* DAVID SEATON.

ABERCROMBIE against David Seaton in Elgine, reported by Saline. The Lords find, the sum in question being but small, *viz.* 200 merks, that the quality of the back-bond, obliging him to all diligence of the law, was sufficiently fulfilled by the diligence of horning and caption, without apprising, adjudging, taking his

escheat, or poiding; and therefore decern. For real diligence would soon have exhausted the sum, and was uncertain. *Vol. I. Page 225.*

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1683. *March 14.* LUDOVICK SPENCE *against* SIR WILLIAM SHARP and JAMES SCOT.

LUDOVICK Spence against Sir William Sharp, and Mr James Scot, sheriff-clerk of Edinburgh, reported by Colinton. The Lords assoilyied Mr James Scot as not being debtor to Sir Francis Ruthven, but to the King's Majesty and his cash-keeper, as to that fine imposed on Sir Patrick Hepburn of Blackcastle, for harbouring Mr Gabriel Semple, a fanatic minister, and which was gifted to Sir Francis. And also assoilyie Sir William Sharp, he being accountable only to the king and the lords of the treasury for that money. Though it was alleged, from *Damonderii Prax. Criminal. cap. 83*, that *militare stipendium*, especially such donatives as thir, were arrestable and not of an alimentary nature. *Vol. I. Page 225.*

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1683. *March 14.* LUMSDEN of INNERGELLY'S CREDITORS competing.

IN the competition among the Creditors of Lumsden of Innergelly; the Lords, on Drumcairn's report, sustain thir two reasons of reduction *separatim* relevant to reduce Cleland's adjudication, with all that has followed thereupon:—*1mo*, That the seaisne was not registrate *debito tempore*, within sixty days. *2do*, That the adjudger himself had, before the adjudication, received payment of part of the sums adjudged for, and so did adjudge for more than was due; and they found the charge against the superior, though without the offer of a charter or a year's rent, is sufficient against competing creditors to supply a year's rent, though it cannot prejudice the superior as to any of his casualties.

And, as to the objections against the children's and John Callander the donatar's adjudications, the Lords repel them *hoc loco*; without prejudice to the creditors to insist in the reduction of these adjudications, as accords. And refuse to consider or receive the said reasons of reduction summarily and *incidenter* in this competition. *Vol. I. Page 225.*

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1683. *March 15.* The EARL of MIDDLETON *against* WOOD of BONINGTON.

THE Earl of Middleton against Wood of Bonington, reported by Forret. The Lords find Bonington's bond of caution for William Coupar, who had been Middleton's chamberlain, and had broke without counting for the rent, did not oblige him. *Vol. I. Page 226.*