

sion of his own land, or else name a chamberlain, or sequestrate the rents in some responsal man's hands, till the event of the count and reckoning.

The Lords refused this bill, in regard it did no ways appear that Thomas was paid.

Then John, by a second bill, craved that he might be ordained to uphold the houses, and not let them go to ruin.

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1685. *March 28.* SIR ALEXANDER FORBES *against* OGILVY.

SIR Alexander Forbes of Tolquhon pursues Ogilvy of Forglen, brother to the Lord Banff, for taking away a gilded mazer cup out of his house, *rei vindicatione*, for restitution or for the value. The libel was admitted to probation, and witnesses were led thereon, who proved nothing. It was at length discovered, that Tolquhon himself had, some years ago, given in this cup to a goldsmith in Aberdeen to be mended; and he having forgot, it was lying there unrelieved for not paying a half crown for it.

The Lords, getting notice of this, proceeded to advise the cause; though Tolquhon, by a bill, craved they might delay till they examined witnesses, who had laid it in beside that goldsmith, seeing Forglen might have shuffled it in there. And the Lords finding it not proven, they assoilyed Forglen, and ordained Tolquhon to pay 1000 merks of expenses, *tanquam temere litigans*: and allowed Forglen to pursue him at Privy Council, or elsewhere, for defamation.

*Vide 30th April 1685.*

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1685. *March 28.* CATHCART OF CARLETON *against* BOYD OF PINKILL.

IN a cause between Cathcart of Carleton and Boyd of Pinkill, the Lords reponed Carleton to the possession, and found it was proven to be part and pertinent of his land; and ordained Pinkill to restore the bygone maills and duties intromitted with by him.

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1685. *March 28.* ——— *against* DOUGLAS and WADDEL.

ONE having given in a bond of L.80 Scots to a lad in Mr Rory M'Kenzie's chamber, called Douglas, to be registrate against one Waddel, who wrote in the same chamber; Douglas gave him back his principal bond, and took a dollar from him in hand, with the promise of three more; but having kept a just double of it, he gave the party an extract, who raising horning thereon, Waddel discovered that he was master of the principal bond.

The Lords imprisoned them both, and ordained them to be carried to the Trone, on the 3d April, being a market-day, at 11 o'clock, and both their lugs to be nailed to it, and to stand there till 12, with a paper on their breasts,

bearing their cheatry, falsehood, and unfaithfulness in their trust; and then to return to prison, and Waddel to lie till he pay the debt. Which ignominious sentence was accordingly executed.

Thus little rogues are caught in the cobweb net of our law, which the great ones break through.

Douglas alleged, that Waddel enticed him to a cellar to take a chopin of ale; and there, with the help of a dragoon, violently robbed the bond from him. But this appeared to be but a falsehood.

The Clerk-register, upon this attempt and emergent, proposed to disjoin that part of registering bonds from his depute's office; it having much hazard annexed thereto, through their being liable for their mean servants, who may be easily bribed to such villanies; and to erect it into an office by itself, and exact caution for it.—This was to bring in a round sum of money from him whom he placed therein. But he having proposed it to the Parliament in June 1685, his deputies gave him a composition to continue it with them; and they are to substitute a particular trustee for that effect. Which provokes some to registerate their writs in inferior courts.

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1685. *March 28.* JAMES CORNWALL of BONHARD *against* The EARL of WINTON.

JAMES Cornwall of Bonhard having denounced and registerate the Earl of Winton at the horn, as cautioner for Sir Walter Seton in a contract of salt, and my Lord having paid the debt, Bonhard was content the horning should be taken out of the register; but George Robertson, the keeper, durst not give it back, lest the Clerk-register should take advantage of him for it; therefore Bonhard and Winton's advocate signed a bill to the Lords, to get their warrant to take out the horning, it being paid, and very recent; and the Register backed it.

Yet the Lords very circumspectly refused it, unless Bonhard deponed that he gave no warrant for the registration: which he did. And so the Lords recalled it as unwarrantable.

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1685. *March 28.* JAMES TURNER *against* ANNAND, &c.

JAMES Turner, cabinet-maker, gives in a bill of suspension against Mr Annand, dean of Edinburgh, and his Kirk-session, for imprisoning him upon a bond he had given to forbear one Widow Biggar's company, with whom he had conversed scandalously, and yet continued therein; as also refused to satisfy for sundry fornications. He pretended, that, these being before the late act of indemnity, they were all pardoned.

ANSWERED,—Kirk-censures and satisfaction for scandals could not be included therein, else all church discipline should be cast loose.

My Lord Drumcain repelled the reason, and found the letters orderly proceeded.

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