

1686.

JOHN MEIKLE *against* LAURENCE PARK.

*January 7.*—MEIKLE, a coppersmith, against Laurence Park, his prentice, whom he charged, on the indentures, for deserting him. The Lords, on Forret's report, before answer, ordained a mutual probation to be led on the points of fact after mentioned: *viz.* when the charger went out of the kingdom, and in what condition he left his shop; if he had a servant or servants therein who were skilful and experienced tradesmen, able to instruct the suspender in the art; and what materials were in the shop or house for marking; and how long he staid away; and if the charger, when he returned home, gave over his shop, and took himself to another employment than the coppersmith's, *viz.* the casting of bells and guns; and if the German, whom the charger brought home with him to help him, did refuse to teach the suspender, or to let him see his work, and threatened him if he looked on the same; and upon any other pertinent interrogatories relating to the matters of fact above mentioned. And also, before answer, allowed the charger to adduce probation of the articles of his special charge of damage sustained by his prentice's deserting. *Vide 12th November 1686.* *Vol. I. Page 390.*

*November 12.*—The Lords advised the mutual probation led by John Meikle and Laurence Park, in the case mentioned 7th January 1686. It was ALLEGED, —The charge being on mutual indentures, there were prestations on the master as well as on the prentice; and the master could not crave performance, unless he first performed his own part; and that the master had failed, by the qualifications mentioned *supra*, so that he had at least a probable ground of deserting him.

The Lords having considered the depositions adduced by both parties, they found the suspender had, without just ground, deserted the charger's service; and therefore, found the letters orderly proceeded against him until he return to his service and work two days for ilk day's absence; he having only served two years of the five; and also find the letters orderly proceeded against the suspender for the £40 of penalty contained in the indenture: but suspend the letters *simpliciter* as to all the rest of the charger's articles of damage.

This was subscribed by the President, conform to the new Act of Parliament. *Vol. I. Page 427.*

1686. *November 18.* LORD YESTER *against* The EARL of LAUDERDALE and his CREDITORS.

LORD Yester gave in a bill, craving, upon his adjudication and infestment, that Mr John Buchanan, his agent, may be named factor for the estate of Lauderdale. ANSWERED for Sir William Sharp and the other Creditors,—If he get his annualrent, he was no farther concerned; and they offered him that. But he was not secured *pro futuro*.

The Lords refused Yester's bill.

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