

bond of provision for that lesser sum, is a lesion; and therefore sustained her revocation and reduction, and reduced; and declare her infestment is a real right burdening the lands of Creighton, and therefore preferred her to Somervil the arrester, on the sums resting by Sir William Primrose, for the price of the lands of Creighton. And find that Penman's right to the acres possessed by him is an incumbrance on the lands, and ought to be purged; and that Sir William the defender ought to have the writs of the lands delivered to him; but that he ought to pursue for the possession of these acres, and the recovery of the writs, both against the representatives of Humby and of Sir John Cunningham, betwixt and the 1st of November next. And in the mean time allow him retention of the price of the lands.

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1687. *July 8.* JOHN CHARTERIS *against* JOHN SMITH, &c., Winram's Creditors.

THE case between John Charteris, merchant in Edinburgh, and Mr John Smith and the other Creditors of Mr James Winram, advocate, being reported by Redford; the Lords preferred the disposition to the apprising, and repelled that nullity of the infestment, that it proceeded on hesp and staple, (not holding *more burgali*;) their infestment proceeding in the same way, and so labouring under the same vice. And, as for the gift of escheat, it was alleged, the horning was null, there being a signeted suspension before the denunciation.

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1687. *July 9.* THE KING'S SOLICITORS *against* BRODY of LETHEM.

THE King's Solicitors having raised a summons of adjudication against Brody of Lethem for 60,000 merks of fine, for his Lady's conventicles, &c.; and it being given out to Mr James Falconer to see for him, on the 7th day after, his two men are imprisoned for refusing to give it back; and it being returned, and immediately called, it was ALLEGED,—It had not the privilege of the King's causes, of summary discussing, but was gifted in my Lord Preston's name, for the use of the two Popish Colleges of Doway and Paris. This was repelled, because the gift was not passed the seals. Then he offered land to the value; which was also refused, because it was imprisoned with liferents.

This adjudication, being for a fine, has but a reversion of one year, by the 26th Act of Parliament 1685. This was *causa religionis* that dispensed with all this precipitation.

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