

1693. *January 25.* LORD ARNISTON *against* BORTHWICK of Lamertonlees.

THE Lords, before they would modify the account of expenses given in, as warded out in expeding the infestment, ordained George Dallas to be examined, how much he received for that account; and found Arniston could only be burthened with the third part of it.

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1693. *January 25.* The MASTER OF BALMERINO *against* ALEX. GIBSON.

THE Lords found an infestment of annualrent had neither a possessory judgment for it nor against it; and that if Balmerino insisted only to declare his bygone annualrent, or back-tack duties to be paid, and prove it instantly, it might be received; but if he sought to extinguish the whole right of L.20,000 Scots (whereof Alexander Gibson had only 5000 merks,) in that case he behoved first to cite and call all the rest of the creditors, who had a joint interest in that sum; seeing he could not prove them paid till they were first in the field, and heard against the same.

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1693. *January 25.* The SECRETARIES of STATE, and DUNCAN ROBERTSON *against* The EARL of ARGYLE, and COLLINE CAMPBELL

THE Secretaries of State, and Mr. Duncan Robertson, against the Earl of Argyle, and Colline Campbell, his sheriff-clerk of Argyleshire. DUNCAN ROBERTSON ALLEGED,—He was summarily dispossessed, in Nov. 1689, of his office of clerk, and therefore ought to be repossessed, and Colline put to a declarator of his right.

The Lords found, that forfeited persons restored *per modum justitiæ* needed not raise declarators of their rights, but might summarily re-enter. And therefore ordained the Earl and Mr. Duncan, presently to debate and discuss the point of right, whether the Earl, by his charters and possession, had the right of placing the sheriff-clerk of Argyle; seeing in other shires the nomination of these clerks belonged to the Secretaries of State, from whom Mr. Duncan derived his right, during the time the late Earl stood forfeit.

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1693. *January 25.* JOHN LAW *against* JAMES ANDERSON, printer.

The Lords, in regard the bond was relative to a bill of exchange, they, before answer, ordained Anderson to depone if he had it, and in case he denied it, then granted diligence against Agnes Campbell, his mother, and Robert Curry, for exhibition of it, that it might appear if there was any receipt of the money on the back of it; for if it was paid, then the bond, being granted for the same cause, would fall in consequence.

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