

1693. *February 15.* BROWN of Thorniedykes *against* DAVID MAITLAND.

BROWN of Thorniedykes, present factor to the estate of Lauderdale, against David Maitland, the late factor. The Lords found, that David was not accountable conform to the tenor of the commission, but in the terms of the bond that he gave in to the creditors at his acceptance; and that it would regulate both the term at which his intromission was to begin, and the lands whereof he was to uplift the rent; unless they could prove he had entered upon the said commission before he qualified it by that accepted bond, because he uplifted the former term's rent by another title.

*Vol. I. page 560.*

---

1693. *February 15.* ALEXANDER HAIGENS *against* JOHN CALANDER SMITH.

THE Lords advised the declarator of trust pursued by Mr. Alexander Haigens, advocate, against John Calander Smith, of the two dispositions of the lands of Craigforth. The Lords finding some weight in the adminicles and qualifications of trust, they, before answer, allowed him to lead what probation he could for ascertaining them.

*Vol. I. page 560.*

---

1693. *February 16.* FOTHERINGHAME of Poury *against* MR. WILLIAM STIRLING, Writer to the Signet.

THE Lords found Poury could not quarrel Mr. William's rights on fraud and latency, on the act of Parl. 1621, as being brother-in-law; seeing his debts were contracted before Poury's debt, and that he was creditor to Francis Laury, the said Marion Watson's first husband; whereas Poury was only creditor to her, and Alexander Rait, her second husband; and any faculty she had to affect her husband's lands with 10,000 merks of debt was only from John Laury her son. And the Lords found the qualifications of trust or fraud, against Mr. William's infetment were not sufficient to reduce his right, but only to restrict it, the same being proven by his oath or otherwise.

*Vol. I. page 560.*

---

1692 and 1693. BROWN *against* THOMSON in Kirkaldy, and HARVY, his pupil.

1692. *December 28.*—THE Lords found the declaration produced, designing him co-tutor, and offering to entertain the child *gratis*, was not such an acceptance of the tutory, and of the disposition where the nomination of the tutory was contained, as to infer he had homologated all contained in that nomination, and consequently that he had acknowledged the 500 merks wherein he was stated