and that the conquest could no more be known before one's death, than, Solon said, a man's happiness could be determined sooner; and that this clause of conquest was only a mere destination. On the other hand, it was argued, that there was no other way of constituting and liquidating the conquest but by the father's oath; and, if it were delayed till after his death, it would occasion an inexhaustible nursery of pleas among the children of several marriages, who, through the changing of bonds from one hand to another, could never clear when it was first conquest. And that they sought the liquidation for no other effect, but only that it might be known: for, neither could any inhibition be served thereupon, neither could it impede his rational deeds of administration; so that he might bestow a part of the first conquest on a wife and children of a subsequent marriage, or on other just and necessary affairs; and that, in trading merchants, clauses of conquest did not bind them to implement, because that would mar traffic; but that held not in others. And, in their favours, they cited Durie, 13*th February* 1677, *Fraser*. The Lords, finding inconveniences on both sides, declared they would hear it *in præsentia*. *Vol. I. Page* 609.

1694. *February* 16. Mr Robert Chalmers *against* Mr Thomas Chalmers of Gogar, his Brother, and John Cooper, *alias* Chalmers, his Son.

The Lords found the reason of reduction relevant, that Mr Thomas, after the pursuer's inhibition, did renounce, in favours of Sir John Cooper of Gogar, the wadset he had on Gogar for 80,000 merks; unless Mr Thomas will say that he got an equivalent security for it, and to which his creditors might have access; and that in place of the 80,000 merks renounced and the 30,000 merks of debt he undertook. For the Lords thought, that, if Sir John had paid the money, the renunciation could not have been quarrelled on the inhibition, unless the inhibition had been intimated to Sir John, the payer: but, seeing it was only by a transaction, it was quarrellable on the Act of Parliament 1621, as in defraud of the prior creditor's diligence; unless he got an equivalent in its room. For the second transaction was looked upon as a contrivance to put his son in fee of the most part of his land. *Vol. I. Page* 609.

1694. *February* 16. Shaw of Nethergrimmet *against* Thomas Mackbirny, and Grierson of Dalgoner.

The Lords found Mackbirny's taking decreets against the tenants, after advocations and tabling the cause before them, and his uplifting the rents, which he alleged could be no riot, being *auctoritate judicis*, was a contempt of their authority; and, therefore, ordained him to restore the rents to the other party, and fined him in £100 Scots to the poor. *Vol. I. Page* 609.