

fell short, then found, that he had recourse to affect the by-gones, to make up the deficiency; though some contended, that it behoved to be interpreted *singula singulis*, that each year's rent should pay that year's current annualrent.

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1694. *February 23.* JAMES LIVINGSTON, Merchant in Edinburgh, *against* ROBERT and WILLIAM WOOD, and FISH.

THE Lords found the certification null against Mr William; because, though, in the decret, Mr William Beton compears as procurator for both William and Robert, the father and son, yet, by the warrant, it appears he only took a day for Robert; and, therefore, they reponed Mr William: for, though a certification be a most sacred tie, and one of the greatest securities of the lieges, with a decret *in foro*, yet, if there be a nullity, it may be loosed. But it is no reason because it is in absence; for then one would never compear and produce, but let certification pass.

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1694. *February 23.* LYON *against* WILLIAM HOUSTOUN and JOHN HEPBURN.

MERSINGTON reported the competition for the stipend of Orr, near Kircudbright, between Mr Lyon, the late episcopal incumbent, and Mr William Houstoun, suspected to be a papist, who preached sometimes there, and Mr John Hepburn, the field Cameronian preacher, who claimed it by a call of the people, and an act of the presbytery of Dumfries, and his serving there.

The Lords preferred him, notwithstanding that the presbyterian church was threatening to excommunicate him as a schismatic, it being instructed that he was one of the presbyterian communion.

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1694. *February 23.* SIR HUGH CAMPBELL of CALDER *against* The MARQUIS of ATHOL and the EARL of DINMORE.

SIR Hugh Campbell of Calder against the Marquis of Athol, and the Earl of Dinmore, his son, for re-delivering his bond of £10,000 Scots, as *causa data non secuta*, and as annulled by the Act of Parliament 1690, rescinding fines and forfeitures; in so far as it was granted to get a deputation of lieutenantancy from Athol in 1685, for trying his own vassals and tenants in the Isle of Ilay, who had risen and joined with Argyle in his invasion; whereon arose two questions. The *first* was, If this case fell under the compass of that Act of Parliament; and, *secondly*, What should be the manner of proving it. As to the *first*, the Lords found, that if it could be made appear that it was granted for that cause,