

4to. ALLEGED,—He could not be liable; because he offered to prove that Strathallan was employed by Torwoodley, as his trustee, to make the transaction, and he did it with his consent allenary. This the Lords found relevant, at least to cause Torwoodley recur against Perth, the receiver of the composition. But the question arose anent the manner how it was to be proven? ALLEGED,—Trust might be proven by adminicles, presumptions, and circumstances. But, in regard they did not condescend on them, the Lords found it probable only *scripto vel juramento*; and, if they elected Torwoodley's oath, they would allow the commoners to be confronted with him: but would not put them presently to make their election; in regard their advocates and Blair Drummond gave their oath of calumny that they had reason to propone the said allegiance, without which the Lords would not have sustained it; seeing Strathallan, the party, was not present to give it. And thus it was, after a great struggle, delayed till June, which the defender was mainly seeking; and was complained of by some as evacuating the late Act of Parliament, ordaining all these actions to be summarily discussed. But it could not be the meaning of summary discussing, to exclude defences or diets to prove them, but only to dispense with the abiding the course of the roll and these other dilators in form. On the 23d of June 1694 Strathallan gave in his protest for remeid of law against Torwoodley's decret.

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1694. *February 27.* LOCKHART of LEE *against* LOCKHARTS of CASTLEHILL and CARNWATH.

CROMWELL Lockhart, the last Laird of Lee, having made a strict tailyie of his estate, wherein he prefers the daughters of Castlehill and Carnwath, his two uncles, before his brother Richard, his daughters, &c.; Castlehill, and the other substitutes in the tailyie, presented it to the Lords, with a bill, craving it might be recorded in their books, conform to the Act of Parliament 1685. The present Lee considering that this would instantly bind up his hands from contracting debt, or providing a greater jointure to a wife than the tailyie allowed, he opposed the registration, and craved to be heard. Several of the Lords thought this interposition would not stop the recording; but the plurality craved he should be first heard.

This will not secure him; for, though the recording be stopped till June, what hinders them to serve an inhibition on it *medio tempore*?

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1694. *February 28.* JOHN TROTTER, Supplicant.

JOHN Trotter, being condemned to die for treasonably supplying the Bass,