ing with the non-delivery, or renouncing all power to alter; in which cases they would not fall under this revocation; and the parties must not be made judges of the nature of tailyies, or the import and meaning of clauses, else an apparent heir may be cut out of all inspection *ad deliberandum.*

The Lords, on the one hand, thought it unreasonable to expose charter-chests to view, where such a document as a revocation indicated the alteration of the tailyier's mind; and, on the other hand, it was as dangerous to let parties judge on dubious and ambiguous clauses: therefore they took a middle way, ordaining the defenders to produce all tailyies lying beside the defunct, upon oath, and the Reporter to peruse the same; and, if he finds they do not fall under the revocation, or may be debateable, then he is to allow the pursuer inspection thereof, and to hear them how far the same are revoked.

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1697. *July* 15. CHRISTIAN SALTON *against* ANDREW CRAWFURD.

HALCRAIG reported Christian Salton, in Lithgow, against Andrew Crawfurd, to denude of the right of an assignation of a 500 merk bond made to him, that he might include it in an adjudication he was leading against the common debtor's lands for sums owing to himself.

ALLEGED,—The fee of this sum belongs to your brother Harry, who is abroad, and from whom you have no right; and though you be liferenter, yet you have no interest, either to lift the sum, or to crave me to denude of the trust, but only to claim the annualrent during your lifetime.

ANSWERED,—A liferentrix is always allowed the *jus exigendi* of the debt, upon finding caution to make it forthcoming to the fiar when the liferent expires; as appears *per L. L.* 3. *et* 5. *sec.* 1. *D. de Usufruct. ear. rer. quæ usu consum.* And, on the 15th of February 1684, between Sir Robert Milne and the Lord Harcourse, about Ludquharn's estate, the Lords found the relict had not only right to uplift, but that an apprising led by her for the stock subsisted as a valid right, even against a singular successor. And the defender's design here is only to retain the money in his hand on the pretence the fiar is still alive, *et præsumitur vivere usque ad centum annos,* being abroad, and unknown whether alive or dead; therefore she, as *curator bonis data,* is willing to find caution.

REPLIED,—Liferenters have never the power of uplifting but where the debtor is *vergens ad inopiam*; but here he is abundantly responsal and solvent, and so there is no necessity of recurring to that extraordinary remedy.

The Lords found he ought either to denude or pay; the pursuer finding caution to secure it for the fiar's use, and to reëmploy it in these terms, at the sight of the Lord Reporter.

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1697. *July* 16. MAXWELL of MUNSCHES *against* MAXWELL of BARNBACHEL.

PHILIPHAUGH reported Maxwell of Munsches against Maxwell of Barnbachel. It was a reduction of a decreet on this nullity,—that I am decerned, on the pas-