

only the minister and kirk-session's verbal orders ; which, as to every minute particular, were impossible for him to prove.

The Lords thought,---Though there was not a special order for every one of his debursements in writ, yet they should at least keep a book wherein should be inserted all that they receive for the use of the poor, and the way and manner how it is given out again ; but, in regard it was informed this exact method was not kept in many churches, therefore the Lords allowed a conjunct probation what had been the custom and practice of Kelso on this point ; and to produce any memorials and documents either party could, for clearing either the charge or discharge, whereby it would appear if his administration had been such as his oath ought to exoner him, yea or not. It was thought, If the quality adjected related to the terms or conditions on which he had accepted the office, that might be pled as intrinsic ; but when he deponed, upon his own discharge, That he had expended all without giving any instruction, this was not so favourable.

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1699. *June 8.* JANET INGLIS, Relict of ANDREW CHARTERIS, *against* The EARL of MURRAY.

JANET Inglis, relict of Andrew Charteris, pursuing the Earl of Murray for some annualrents, he founded on her discharge for £480 Scots. ALLEGED,—That, she being to receive 1200 merks from the Earl, Bannockburn, his writer, would not give it till she also subscribed that £480 receipt, though she got nothing for it ; and she, being in great need, was forced to yield to this unreasonable demand, or else she would have got nothing. ANSWERED,—If this were concussion, all the eases and abatements that are given in Scotland might be quarrelled.

The Lords found, This might draw in question many transactions ; and, seeing neither force nor threats were adhibited, but only the refusing voluntary payment, they found this no sufficient qualification of concussion ; and therefore sustained the discharge.

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1699. *July 14.* DAVID OGILVIE of PELTY *against* LORD BALMERINO and the MASTER of BALMERINO.

DAVID Ogilvie of Peltly pursuing maills and duties of the lands of Cowbyres, whereunto he had right by disposition from the deceased Lord Cowpar ; the Lord and Master of Balmerino, as heirs to the said Lord, compear, and repeat a reduction of the disposition, on this head, That it was never a delivered evident, but a mere trust, or unwarrantably got up after the Lord Cowpar's death. And the allegiance being referred to his oath, he, on the first examination, depones, That he had served my Lord many years without any fee ; and, being his Lady's cousin, believes this was given him in remuneration, being but 100 merks *per annum* ; and that he got it, after my Lord's death, from a vassal of