

and that in this case, and of all the indulged ministers, they had given warrants to pay the whole to the indulged ministers, for all the years they had served alone ; which warrants were granted after the years in which they had served.

*Vol. II, Page 485.*

1677. *January 13.*

MEEK, Skipper.

MEEK, skipper being first holden as confessed before a sheriff, and after being reponed by the Lords, and a day taken to produce him ; he went to sea some days before the term ; which being circumduced, a supplication was given in on that ground, that the skipper was gone abroad before the term.

Which the Lords refused, seeing he ought to have attended the term, or have offered his oath before the term ; and, therefore, the Lords now refused to repone him in this second suspension, though he offered to depone, that he was not advertised by his advocate. And now, by supplication, he offers to refer to the charger's own oath the verity of his own libel. Which the Lords sustained, seeing " being holden as confessed " is but a presumptive probation, and therefore a positive probation of the contrary, by the oath of the pursuer, is sufficient to take off the same.

*Vol. II, Page 493.*

1677. *February 12.* JAMES NAISMITH, Younger of Posso, *against* EDWARD RUTHVEN.

JAMES Naismith, younger of Posso, having obtained a gift, from the king, of his father's single escheat, pursues the tenants of Lethem, liferented by the Lady Lethem, now spouse to Posso elder, and belonging to him *jure mariti*, and thereby falling under single escheat. Compearance was made for Edward Ruthven, who obtained a gift of the Lady Lethem's liferent-escheat from the Duke and Duchess of Hamilton, of whom the lands were holden ; the Lady having been denounced, before her marriage with Posso : so that his *jus mariti* could not reach the rent of these lands which were fallen by liferent-escheat in Duke Hamilton's hands.

It was ANSWERED, That the gift was purchased from Duke Hamilton, by the means and moyen of the Lady Lethem herself, and taken in name of the deceased Mr John Baillie, advocate, who assigned the same to Edward Ruthven, the Lady Lethem's grandchild ; and, though his assignation bears, That his name was in trust for Edward Ruthven, yet, Edward being a child, it could not be supposed to be obtained upon his own account.

The Lords ordained the Duke and Duchess of Hamilton to depone, whether they received any sums for this gift, and from whom ; and if it was granted freely ; upon whose account, and to whose behoof, it was granted.

*Vol. II, Page 519.*