

suit, being served heir of provision to the father, (*vide supra*, num. 490 and 550,) he cannot pursue, because the obligation is extinct and confounded. And there was no rational or legal way of securing the provision he got from his father, from his father's posterior debts, but by serving an inhibition against the father upon that obligation, though the remedy be a little harsh.

On the 27th of July 1677, both parties having submitted one point of £1000 sterling, in variance betwixt them, to the President, he arbitrated 16,000 merks with consent of both parties; and, having reported it to the Lords, he obtained their authority interposed thereto. *Advocates' MS. No. 609, folio 294.*

1678. *January 22.*—This day Hay of Drumalziar's action against the Earl of Twedale his brother, was advised, and the Lords modified the price of the lands to 16 years; and thereafter, on a bill given in by Drumalziar, they raised it a year's purchase more, *viz.* to 17, which was thought a very competent price for lands in Twedale. See this more fully observed *alibi*.

*Advocates' MS. No. 712, folio 316.*

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1678. *January 25 and 26.* The DUKE of LAUDERDALE *against* The EARL of TWEDALE.

THIR two days were wholly consumed almost in the Inner-House (yea, they sat till one o'clock, which some affirmed unlawful,) in advising the Duke of Lauderdale's action against the Earl of Twedale, about the teinds of Pinky, within the lordship and regality of Mussleburgh, in which there were three points; one of the tack, another of the heritable disposition, and if it was annexed property, and the third was, if it was prescribed, since, in the English usurpation, the Duke of Lauderdale was *nec valens, nec volens, nec potens agere*. Of this see more *alibi* in thir collections. *Advocates' MS. No. 714, folio 316.*

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1678. *January 29.* JOHN LAMB *against* The EARL of CARNWATH.

IN the action pursued by John Lamb, merchant in Edinburgh, against the Earl of Carnwath, on the passive titles, for payment of the sum of contained in a decret *in anno* 1668, obtained by Lamb's cedent against his father:

ALLEGED,—The decret was for a remain of the maintenance in 1649; and, by the Act of Grace in March 1674, all these taxations are discharged.

ANSWERED,—The Act contained an exception, where bond was granted for them; and here a decret compearing was obtained for it long before the Act, which was equivalent, since the same execution passed on decreets that passed on bonds. Next, they were only seeking relief of what they had paid for Caruwath's father.

REPLIED,—*Statuta sunt stricti juris*, and so cannot be extended to the case of decreets.

This point being reported to the Lords by Harcous, they found the debt fell