

of his successor in office : except the said arrester offers to prove, by the witnesses inserted, that the discharge is antedated : in which case they allow her diligence for citing the witnesses to the 26th of February next. See thir parties at that day.

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*February 26.*—The Poor of the Parish of St Cuthbert's against Janet Williamson, (22d Feb. 1681.) The Lords, having considered the deposition of one of the witnesses in the discharge, denying it to be a true date, find the same cannot improve it, (yet it may render it null,) if the other witnesses do approve; and therefore ordain the other witnesses to be cited and examined; and allow both parties the indirect manner for improving or approving of the same, providing Mr James Elies, betwixt and Wednesday next, compear and abide by the said discharge produced and used by him; in which case they ordain the said Janet, the improver, to consign £30 Scots in the clerk's hands; and if, before the said time, the said James Elies do not abide by it, then they prefer the petitioner, Janet Williamson, and ordain her decret to be extracted; and allow Mr James to protest in his abiding, that it is only as kirk-treasurer, &c.; or otherwise, as he thinks fit.

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See *12th December 1679, Robertson against Robertson; 15th July 1681, Comblin against Corby; and 9th December 1681, Nisbet against Westkirk*, the continuation of this case.

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1681. *March 4.* ROBERT MILN *against* SIR PATRICK HOME.

ROBERT Miln, tacksman, &c. against Sir Patrick Home of Polwart for customs, &c. ALLEGED,—He exported and imported nothing but for his own use; and whatsoever is so done by noblemen and gentlemen is exemed from paying of custom by express law; Act 152, Parl. 1592, Act 251, Parl. 1597, and the other laws and authors there cited. ANSWERED, I.—This Act does not liberate from Excise, which is a tax and burden invented and imposed since these Acts, and the exemption is not repeated in the Acts anent Excise. II. The Parliament's grant of the customs to the King in 1661 has innovated this; and there is no reservation in favours of gentlemen. III. No other import is exemed from customs but what is the product and immediate return of our own exported commodities; which this was not. REPLIED,—It is enough that it is not rescinded nor taken away.

This touches the gentry in their copyholds and ancient privileges.—It was continued.

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1681. *June 3.* PATRICK GARDINER *against* The LADY TORWOODHEAD and WILLIAM BAILLIE, her Son.

THE Lords, having heard Newton report the debate, found the inhibition against James Lord Forrester could take no effect against the infettment of wadset, though posterior, granted by him to William Baillie of Torwoodhead, his brother, if the granter thereof was obliged to give an infettment either of wadset or of annualrent, (though this last seems not to be a specific implement of the anterior obligation,) and that either personally himself, or as representing