

and so, being *bona fide possessor*, he could not be countable, but only since the date of the interlocutor finding him liable.

Yet the Lords, on Carse's report, find that the defender must count for the sums contained in the first apprising, and conform to the whole rental since his possession, in the terms of the former deliverances, and act of count and reckoning; and assoilyed from the reduction.

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1688. *July 20.*

THE Lords found a subsequent Sheriff-depute could not discharge a fine imposed by a former Sheriff-depute, but that it belonged to his predecessor.

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1688. *July 21.* MAXWELL *against* LAWSON of BEARCROFT.

THE case of Maxwell and Lawson of Bearcroft was decided. It was a removing, against which the exception was; I have a comprising of thir lands: and it being objected, that they were not expressed in it, they offered to prove they were part and pertinent of the lands appraised. And, for eliding it, it was ALLEGED, they were known to be *distincta et separata tenementa* by several appellations, lying in sundry parishes, and holden of divers superiors.

It was unnecessary to burden themselves with all this *ad victoriam causæ*. But, however, a joint probation was allowed; and, writs and witnesses being adduced, the Lords, on advising them, found part and pertinent not proven: and therefore decerned in the removing.

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1688. *July 21.* THE MAGISTRATES of ARBROATH *against* JAMES CARNEGIE of NEWGATE.

THE Magistrates of the Town of Arbroath pursue James Carnegie of Newgate for purprusion, by incroaching on their marches, whereby he had lost his feu. ALLEGED,—Thir lands holding burgage, the Town was not his superior, but the King, whose bailies and commissioners they were; and so the benefit and casualty of the forfeiture did not accresce to them, but to the King. And he had turned popish to get a gift of it.

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