

servation. But the Lords thought there was enough produced here as adm-  
 nicles to prove and make up the warrant of the seasine, the original bond being  
 also produced; though others inclined to cause them produce the second bond  
*cum processu.* *Vol. I. page 543.*

1693. *January 10.* The EARL OF TARRAS *against* SIR JOHN DEMPSTER of  
 Pitlever.

THE Lords advised the debate between the Earl of Tarras and Sir John Demp-  
 ster of Pitlever. The Lords, before answer, whether this was true and real pay-  
 ment made by Sir John, to the Earl of Seaforth, donatar, ordained Sir John to  
 depone if he made actual payment, or if it was a transaction, and what was the  
 nature of it, in presence of Keery of Gogar, and Sir Patrick Murray, who were  
 comuners at the agreement. Some of the Lords were for declining themselves  
 in this case, as they had done between Middleton and Waterside; others for su-  
 perseding to give answer till the Parliament met, at least, to the 12th of Febru-  
 ary, which is two days after the day to which it is now adjourned; as they had  
 done in *Scott of Vogrie's* case *against Sir Duncan Campbell of Auchinbreck.*  
 But the Lords had formerly sustained themselves Judges, and given sundry in-  
 terlocutors in this cause; so the act, before answer, was agreed upon.

*Vol. I. page 543.*

1692. *December 23, and January 10, 1693.* LESSLY of Balquhain *against*  
 IRVINE of Drum.

1692. *December 23.*—LESSLY of Balquhain *against* Irvine of Drum, and his  
 administrators, who sought to stop his general adjudication, and restrict him to a  
 partial one, by offering him a progress.

The Lords did not regard his objections against the writs produced as defec-  
 tive; for they supplied that two ways, by referring to his oath, that he knew  
 Drum's right to his lands these 500 years bygone has been incontroverted, and by  
 offering to bring the Chancery-books and other records, for instructing his char-  
 ters and retours; neither did the Lords notice much Balquhain's condescendence  
 upon incumbrances; for his debts were prior thereto. But they ordained his ge-  
 neral adjudication to go out, and would neither stop nor restrict it; because  
 there was no party here to renounce the possession, and dispone the parcel, which  
 was to be given him off, for his money. Though the President and sundry ar-  
 gued, that Drum being a weak man, he was to be repute in the case of a minor;  
 and so his administrators might renounce and dispone. But the Lords thought  
 this would not secure the adjudger, and that thir administrators had not the power  
 of tutors or curators, much less could have a despotic and arbitrary power of con-  
 senting, renouncing, and disposing. And though they had all tenderness for sup-  
 porting this ancient estate, especially when fallen into the hands of one near to an