

1693. November 25. ELLIOT against SCOTT of GORRENBERRY.

THE Lords advised the probation led by Elliot against Scott of Gorrenberry, for his damages through Gorrenberry's not entering him to a room he had let him, whereby he lost many of his sheep and other cattle. The witnesses deponed he was a loser, and qualified both his *lucrum cessans* and his *damnum emergens*; but could not be special what it amounted to.

The Lords, considering that, on such an indefinite probation, they behoved either to assoilyie, or supply it; and finding his damage evidently proved, they ordained him to give his oath in supplement what he truly lost by the want of that room; reserving to themselves to tax and modify, at the advising, if they saw cause.

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1693. November 25. WATSON of ETHERNEY against SIR ANDREW BALFOUR.

In the process between Watson of Etherney, and Sir Andrew Balfour,—The Lords adhered to their former interlocutor, and found the specialties condescended on for Sir Andrew did not so alter the case as that Wilson the book-keeper's deposition should be divided; but found, seeing he had made use of it to constitute his charge, it behoved also to be taken complexly to exoner him, in so far as he had also deponed upon the discharge, and the way and manner how the profits arising from the Caper were expended.

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1693. November 25. AGNES COLQUHOUN against JOHN GEDDY.

THE case of Agnes Colquhoun and John Geddy, in Faulkland, was advised; and the Lords preferred her, in regard his progress was lame and incomplete, having only an act of litiscontestation mentioning his apprising, and a subscribed inventory under Patrick Telfer's hand, acknowledging the having some of these writs; which the Lords found not probative *hoc ordine*; but reserved them as adminicles in a tenor, or to insist thereon when he should recover the same.

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1693. November 28. JOHN STAMFIELD against GEORGE DAVIDSON.

ON a petition given in by John Stamfield against George Davidson, the Lords would not receive exceptions against his debt *hoc ordine*, to stop his adjudication, but reserved all defences *contra executionem*, when he should insist for the maills and duties; though it was alleged, that summary dispatch only held when they were like to be cut off from coming in within year and day; whereas here Davidson was long without the year already. But it was thought, seeing none