

that Hewat had loss, and had not removed all ; and some of his son's goods might be there. Some Lords proposed, that, by his confirming promiscuously, the property of the goods became the father's ; and so they behoved to perish to him : but the Lords repelled this, in regard the dominion of the confirmed goods is not established in the executor's person, till either it be executed by a sentence, or innovated by a new security given to the executor.

*Vol. I. Page 575.*

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1693. *December 6.* FOWLER and FRASER *against* GRANTS of AUCHMONY and CORIEMONY.

THE Lords found the reasons now proponed either formerly proponed and repelled in the decret of suspension already obtained, or else then competent and omitted ; and thought it was not sufficient that the discharge and translation was not offered at the precise day, seeing it was afterwards given, unless they instructed a damage and prejudice by the delay. Yet some thought it ought at least to have assoilyied them from the penalty. *Vol. I. Page 575.*

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1693. *December 6.* The EARL of ROXBURGH *against* His FEUARS of MIDLUM and CORDON.

MERSINGTON offered to report the Earl of Roxburgh against some of his feuars of Midlum and Cordon : but the Lords, without deciding it, recommended it to agreement ; for they thought it unreasonable, that the superior, at his own hand, without his vassal's consent, should, in his baron court, convert their carriages to money, there being no such liquidation nor conversion in their charters ; and these not being due but yearly *si petantur* ; though their feus wanted that clause.

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1693. *December 6.* CLACKMANNAN'S CREDITORS.

THE Lords also, on his [Mersington's] report, modified 500 merks, to be paid by the factor of Clackmannan, to the creditors who were carrying on the sale of the estate, for defraying the expense of the process ; and declared they would, at the advising, consider off whom it should come : though it seems most equitable that it should default *in cumulo* and *pro rata* from the haill. Only, the preferable creditors said, We ought to bear no part of it, in regard we are sufficiently secure *in omnem eventum*. But that is only for their annualrent ;—they can never raise their principal sums but by a roup. *Vol. I. Page 575.*