

Lord's chamberlain and doers bade them stay at home, for they should be in no hazard. Though my Lord answered, they had no commission from him, of giving any such assurance; yet the Lords thought, there was much to be indulged to the rusticity of tenants.

*3tio.* The quantities and prices whereon they were holden as confessed, were most exorbitant.

The Lords judged it reasonable to reponne them; such duties being oft libelled at random, far above the true values; unless my Lord would consent to discuss the reasons summarily on the bill. But, in either case, modified 100 merks of expenses, to be paid the charger ere they were reponed. *Vol. I. Page 642.*

*November 20.*—In the cause between the Earl of Annandale and French of Frenchland, mentioned 14th current, the Lords finding that the suspender took advantage of his succeeding by a singular title, to shun the payment of those years his father possessed; therefore, to bring him to reason, they refused to loose the decret against him, but referred it to the reporter to settle the parties, so as he might restrict to the true quantities and price of the vicarage, and not as they were exorbitantly libelled at large.

This was to cure one piece of strict law with another as rigorous, and to draw him to reason only. *Vol. I. Page 643.*

1694. *November 21.* JOHN GUILDMAN *against* JOSHUA SMETON, Skipper in Dundee.

THE Lords reponed the skipper against the decret; because, though it bore compearance, yet it mentioned no mandate the procurator had; in which case he could not refer to the pursuer's oath that he had received the bag of spice, seeing it was incumbent on the pursuer to have proven his intromission with it. And what moved the Lords, was, that he had been silent for several months after the entry, and had not intimated to the skipper that he wanted it, and never reclaimed till the skipper was seeking his freight: but found, he might yet prove, that, after the entry of the goods, he required the skipper, by way of instrument, to hold count to him for that bag of pepper; or else, by the skipper's oath, that it was never delivered. For, though the bill of loading did bind it on the master, yet it bore, "quality not known;" and, having delivered the goods in gross, and in cask, it might have been wrapt up therein; and, after he missed it, he should immediately have required it.

Some thought, if the parties had objected it, the bailies of Dundee were not competent judges to such a maritime cause, but only the Court of Admiralty; and others doubted if they could prorogate the jurisdiction by consent.

*Vol. I. Page 644.*

1694. *November 21.* MR ROBERT BENNET, Advocate, Petitioner.

WHITELAW reported a bill of suspension, given in by Mr Robert Bennet, advocate, of a bond, bearing a substitution, failing the charger by death, to an-