

\* \* Haddington reports this case :

No. 10.

Sir Alexander Napier, James Inglis, James Leslie, and George Austine, being contractors with Roger Duncanson for security, to have been made to them by Duncanson, for soumes auchtand to them by infestments of wadset lands, and the said partners being bound lovingly, faithfully, and friendly, ilk ane to assist others for obtaining their securities, Napier obtained the gift of Duncanson's life-rent, seeking declarator. The parties excepted upon the contract and bond of mutual assistance. Napier replied, That he was not thereby excluded from the liberty to take the life-rent, vacant in his Majesty's hands, which was free to every subject. The partners granted that he might, but not with such freedom to use it to their prejudice as a stranger might have done, *ob contractum bonæ fidei inter eos initum*, and the clause of friendly concurrence; so as he who was bound to concur to procure them surety from others, could not impugn their right by any title procured to himself. The Lords, having respect to the clause of their mutual and friendly contract, found the exception relevant, the partners paying to the pursuer all expenses disbursed by him in purchasing the gift, declarator, and other charges.

Haddington MS. No. 3101.

1696. December 9.

BROCK against BROWN.

HALCRAIG reported Robert Brock, Goldsmith in Glasgow, against George Brown, Flesher there, who had entered into a co-partnery of buying Highland cows, and selling them by retail, in Glasgow market, wherein Bailie Brock contributed £.100 Sterling, for buying the stock, and the other furnished no money, but only his pains in going to the Highlands and buying them, and in killing and selling them; and being pursued for the product before the Commissary of Glasgow, and being twice examined, and decerned for the balance; and having suspended, the Lords found his second oath the rule; and where one gives in *pecunia* to a Society, and the other his *opera* and personal labour only, they thought he could claim nothing on the account of his pains, seeing that was all he conferred to the society in place of money, and therefore expunged the article of £.200 Scots, he craved *eo nomine*.

Fol. Dic. v. 2. p. 376. Fountainhall, v. 1. p. 741.

1707. March 18.

ALEXANDER ALISON, Writer to the Signet, against The DIRECTORS of the AFRICAN COMPANY.

ALEXANDER ALISON having, as creditor to Henry Crawford, merchant in Dundee, one of the joint adventurers in the African Company, arrested in the

No. 11.

No charge can be made for trouble, where no stock is contributed.

No. 12.

Share of the capital stock of a company,