

stands infeft; and the said house being ruinous, craves the factor on the estate for the creditors may be ordained to advance 500 or 600 merks for repairing the said house, seeing it will be their prejudice if it fall. ANSWERED,—The creditors have the burden of upholding the principal mansion-house of the estate at Clackmannan, and it were hard to oblige them to more; and the Lady may well enough, out of her opulent jointure, maintain her own liferent-house; especially seeing Greenock was threatening to evict these very lands of Sauchie on an ancient interdiction. REPLIED,—The Lady was content to leave it in a sufficient habitable condition if it were once repaired, which is all that law requires of a liferenter; and, when the lands come to be sold by roup, [they] will give the greater price that the manor-place be kept in good condition.

The Lords refused the bill *hoc ordine*, and would not summarily ordain the creditors, nor their factor, to uphold or repair her jointure-house; and especially when the right was quarrelled, and under reduction; and the creditors did not consent to the reparation, who are now the heritors of the lands and houses.

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1698. *January 6.* LESLY of EASTQUARTER *against* JANET and ANNA DICKS.

LESLY of Eastquarter pursues Janet and Anna Dicks, daughters to Grange, for tutor-accounts of Sir John Lesly, their grandfather. The DEFENCE was,—I can only be liable *secundum vires inventarii*, because I have entered heir *cum beneficio*, as the Act of Parliament 1695 allows. ANSWERED,—You cannot have the benefit of that Act, for it is only introduced in favours of apparent heirs after the date of the Act, or whose *annus deliberandi* was then running: but, *ita est*, Your predecessor was dead many years before the making of this Act, and your *annus deliberandi* was expired; and it is evident, by the Act, there is no new year allowed to deliberate. REPLIED,—The words, “for hereafter,” were only added to exclude such as had entered before simply, conform to the law then standing, from claiming the privilege of entering a second time, *cum beneficio*, but not to hinder apparent heirs, though their apparenacy existed before the Act, to enter and serve heirs *cum beneficio inventarii*, providing they did it within year and day of the said Act.

The Lords, having considered the Act, were generally clear that it did not extend to such apparent heirs as had their year of deliberation expired before the Act was made. Yet, in regard it was moved to endeavour the settling of the parties, the decision was forborne.

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1698. *January 8.* JOHN VEITCH *against* GALT, BALFOUR, and OTHERS, POURIE’S DEBTORS.

IN a process of forthcoming pursued by John Veitch, son to Dawick, against Galt, Balfour, and other merchants, as having some goods in their hands be-