

1684. JAMES WEIR of KIRKFIELD *against* PATRICK MITCHELL.

*February 8.*—PATRICK Mitchel in Preston having raised brieves to serve himself heir to — Mitchell his cousin-german, before the bailies of the Canon-gate, and having led probation on his consanguinity before the inquest; James Weir of Kirkfield, servant to the high-treasurer, having got the gift of the defunct's *ultimus hæres* and bastardy, raises an advocation; and though there were no documents of bastardy, but great evidences of his legitimacy and his contingency of blood, yet it was advocated to the macers, and Saline appointed to be their assessor. *Vide* 10th April 1684. *Vol. I. Page 268.*

*April 10.*—Patrick Mitchell's service (mentioned 8th February 1684,) being ordained to be led before the macers, and Saline adjoined as their assessor, and this day being set; Weir of Kirkfield, donatar to the defunct's bastardy, stopped it on a bill, pretending that if he had got an incident to cite witnesses on the bastardy, and to prove the inability and poverty of Mitchell's witnesses, he would make it appear that this party had no blood interest at all, and that the defunct frequently declared he was nothing to him.

On this, they continued the service for two weeks, and granted the donatar a diligence; but at last the service was got expedite on a probation of his propinquity. *Vol. I. Page 295.*

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 1684. *April 17.* HUGH WALLACE *against* HUGH CAMPBELL and HUGH ARCHIBALD.

HUGH Wallace, servitor to Sir William Wallace of Craigie, pursues Hugh Campbell, Cesnock's son, and Mr Hugh Archibald, agent, for calumny and defamation of him, in alleging he had tampered to corrupt and seduce the witnesses against Cesnock. The defence, by way of reconvention, was, *first*, That the condescending on him in the criminal court as the practiser of the witnesses was necessary, being forced thereto by the Justice-General, who repelled the objections of subornation otherwise proponed in general. *2dly*, They had probable grounds to think he had been over active; for some of Cesnock's witnesses deponed that he had drunk with them, and given one of them a little money, and pumped what they could say against Cesnock; and *quævis probabilis causa excusat a calumnia*.

The Lords found both the libel and reconvention relevant; and admitted both to probation. *Vol. I. Page 295.*

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 1683 and 1684. JOHN HAY of MUIRIE *against* BALLEGERNO, POURIE, and OTHER CREDITORS of the last LAIRD of MUIRIE.

See the prior parts of this case, *supra*, page 417.

1683. *March 13.*—Sir John Hay of Muirie, advocate, his recognition