

Inventory

Inventory of items in the Home bundle in the Adie Family papers. Inventory by Chris Adie March 2017. Numbers correspond to the circled pencil numerals on each document, possibly inscribed by my father.

1. Decreet of Adjud & Abb Mrs Jean Home agt David Home 11 Augt 1756
2. Decreet of adjudication and abbreviate Jean Home & husband against David Home 3 Decemr 1751 [1752]
3. Decreet Jean and Janet Home Agt Peter Campbell Home 24 July 1765
4. General & Special Charge Homes A Campbell Home 1765
5. Memorial & Queery for Mrs Sanders 1791
6. Indenture betwixt Messrs Bell Wardrop & Russell And John Nisbet 1792
7. Account of Home Buchan family taken from writ?? Holograph of him and sent by Mr Adie
8. Copy letter by ??? To ??? June 1809 [1839]
9. Copy Disposition Frances Fraser To Mrs Hellen Laidlaw 1811
10. Representation for John Adie 1816 And Account of Expences Incurred by the Pursuer Mrs Laidlaw
11. Testament Dative Umql Anne Sanders 1827
12. Letter to John Adie from Andrew Crombie 1827
13. Letter to John Adie from Admiralty Office, 1829

1. Decreet Jean Home agt David Home 1756

Decreet of Ajud. & Abb

Mrs Jean Home

Agt

David Home

11th Augt 1756

THL

[Marked “Crombie” in John Adie’s handwriting]

[This decret assigns to Jean Home more of the Edinburgh property inherited by David Home.]

2. Decreet of adjudication 1751

Decreet of adjudication

And abbreviate

Jean Home and husband

Against

David Home

3 Decemr 1751

JRB

[Marked “Crombie” in John Adie’s handwriting]

[Judgement against David Home, transferring ownership of a Laigh House (tenement?) to Jean Home in partial satisfaction of debts due by him to her. David Home did not compear - presumably he was “furth of Scotland”.]

3. Decreet Jean and Janet Home, July 1765

Decreet

Jean and Janet Home

Agt

Peter Campbell Home

24 July 1765

[Marked “Crombie” in John Adie’s handwriting]

[Sets out in full and complex detail the debts due by George Home their father to Jean and Janet Home, and to their deceased brother John (the two sisters being his executors). The debts fell to be paid by George Home’s eldest son David Home their brother, but (he being deceased) then fall to be due by his eldest son Peter Campbell Home, nephew to Jean and Janet Home. The Decreet calls on Peter Campbell Home to take up title to the legacy of his grandfather George, presumably so that he can pay the substantial sums of money due. Peter Campbell Home did not contest the action.]

4. General & Special Charge

General & Special Charge

Homes

A

Campbell Home

1765

Jas Chalmers

[Marked Crombie in John Adie's hand]

[This document sets out debts due by Peter Campbell Home as eldest son of the deceased David Home of Kello to Jean and Janet Home as executrixes of their deceased brother John Home (also brother to the said David). It desires Peter Campbell Home to make up his title to various properties in Edinburgh (inherited through his father from his grandfather George Home), presumably so he can pay those debts. The document is dated 8 October 1765, and was served on the following day to Peter Campbell Home.]

5. Memorial & Queery for Mrs Sanders 1791

Memorial &

Queery for Mrs

Sanders

1791

[Marked Crombie in John Adie's handwriting]

Memorial for Mrs Janet Home, relict of the deceast John Sanders one of the Tellers of the Bank of Scotland.

The said John Sanders was thrice married; of the first marriage there exists one daughter; of the second marriage two daughters; and of the third marriage with the memorialist two daughters.

The only point in dispute betwixt the memorialist and these Children, is concerning a Gold Watch which was in the possession [damaged paper] the Memorialist at her husband's death - the daughter of the first marriage makes no claim to it as being ????????? - The watch is now claimed by Mrs Icham[?] the oldest daughter of the second marriage; By the Memorialist and by her two daughters - Mrs Behew[?same name as above] claims this Watch as having originally belonged to her mother; but this averment[?] is not agreeable to the fact, for whatever watch belonged to Mrs Icham[?]'s mother, certain it is that the watch in Question was purchased by Mr Sanders at London since his marriage with the Memorialist and was by him gifted to her many years before his death; and must be considered as belonging to her Paraphernalia.

That this was the fact, appears evident from Mr Sanders P??t will - There was belonging to him at the time of his death a Gold Watch and a Silver Watch - To the youngest daughter of the third marriage he bequeathed the Gold Watch; and to the Claimant Mrs Bch??? second son the silver watch, and so sensible was he that the Gold Watch in Question belonged to his wife, that he made no mention of it in his will - The Memorialist is therefore desirous to know from Counsel that taking into consideration the Circumstances of the Case whether or not the watch in Question must be considered part of her Paraphernalia.

Answer

Upon the footing of the facts stated in the foregoing memorial I am of opinion that the watch in question must be considered as part of Mrs Saunders's paraphernalia and as such belongs to her

St Andrews Square

January 24 1791

Alexander Wight

6. Indenture John Nisbet 1792

Indenture

Betwixt

Messers Bell Wardrop & Russell

And

John Nisbet

1792

It is contracted and agreed betwixt Messers Bell Wardrop and Russell Surgeon Apothecaries in Edinburgh on the one part and John Nisbet son of John Nisbet Esquire of the Island of Jamaica with the special advice and consent of George Murray Esquire of the Island of Jamaica as Cautioner for him And also the said Cautioner for himself and as taking burden upon him for the said John Nisbet with one advice and assent on the other part in manner following That is to say the said John Nisbet hereby becomes bound apprentice to the said Messers Bell Wardrop and Russell in their Calling of Surgery and Pharmacy for the space of three years commencing from the date hereof during which space the said John Nisbet binds and obliges himself to serve the said Messers Bell Wardrop and Russell faithfully and honestly by day and night holiday and workday and shall not hear of his masters damage at any time during the space aforesaid without giving notice thereof to them and hindering it to the utmost of his power That he shall not reveal his masters secrets in their arts nor the secret disease of their patients nor have any patients of his own upon any pretence nor absent himself from their service at any time during the said space nor be guilty of nor accessory to raising any tumults or uproars within the City of Edinburgh or Suburbs thereof and he and his said Cautioner oblige themselves ???ly and ?eally to relieve his masters of all penalties that shall happen to be imposed upon them by the Magistrates and Town Council of Edinburgh in case he the said apprentice shall be found guilty as aforesaid And further the said apprentice

obliges himself that he shall not misbehave by word or deed or in any other way but if he shall commit or omit any thing contrary to the premises in such event it is hereby declared and agreed that he shall lose his apprentice fee and be extruded by his said masters from their service and shall lose all the liberties and privileges of this Indenture and that it shall become void and null to him for his part thereof ipso facto without any process or declarator of law And lastly the said John Nisbet and his said Cautioner bind and oblige them jointly and severally to make up all loss and damage the said Messers Bell Wardrop and Russell shall sustain by his negligence disobedience absence or any enormity whatever And the said John Nisbet obliges himself to relieve his Cautioner of his Cautionary and of all loss damage and expence he may happen to sustain therethrough For the which causes and in consideration of the sum of Twenty Guineas Sterling instantly paid and delivered by the said Cautioner in name of apprentice fee with the said John Nisbet to the said Messers Bell Wardrop and Russell whereof they grant the receipt and discharge all concerned thereof forever The said Messers Bell Wardrop and Russell oblige themselves to teach and instruct the said apprentice in the said arts of Surgery and Pharmacy and shall not hide or conceal any thing of the same from him And finally both parties bind and oblige themselves to perform the premises to each other and the party failing to pay to the party observing or willing to observe the sum of Twenty Pounds Sterling over and above performance And they consent to the Registration hereof in the books of Council and Session or others competent that letters of homing on six days charge and all other necessary Execution may pass on a decree to be hereto interponed in common form And Constitute [blank] Their pro???? In witness whereof these presents written upon stamped paper by Charles Oliphant Clerk to William Balderston Writer to the Signet Clerk to the Royal College and Incorporation of Surgeons of the City of Edinburgh are subscribed by the said parties as follows viz. by Messers Bell Wardrop and Russell at Edinburgh the seventeenth day of October Seventeen Hundred and ninety two years before these witnesses Thomas Russell Bookseller there & the said Charles Oliphant and also by the said John Nisbet place and date foresaid and before the same witnesses - Witnesses also to both the said parties signing the marginal note hereon

Thomas Russell Witness
Chas Oliphant Witness

Bell Wardrop & Russell
John Nisbett

[John Nisbet was born 28 June 1781 in St Cuthberts parish to John Nisbet and Katharine Shannan (Scotlands People website). He was therefore a year older than John Adie, was 11 years old at the date of his Indenture, and the apprenticeship would last until he was 14.]

7. Account of Home Buchan family

Account of Home Buchan family taken
from[?] written[?] holograph[?] of him
& sent by Mr Adie

[Marked "Crombie" in John Adie's handwriting]

Sir Geo Home of Kello who died about 1712 married 1st a daughter of Sir Ja^s Maxwell of Calderwood – 2^{dly} a daughter of Tho^s Noble by whom he left an only Son George who succeeded him & married Miss Pitcairn a Daughter of D^a Pitcairn of Dreghorn, by whom he had 5 sons & four daughters – The eldest daughter Mary was married to Lord Patrick Crawford – by him she had 2 daughters Graham & Margaret Graham was married to Patrick Bogle. They had also 2 sons John who died before his father & George who succeeded his Father in 1735 & upon the death of his cousin John 17th Earl of Crawford he succeeded in the titles of Earl of Crawford and Lyndsay. He married Miss Hamilton by whom he had 3 sons & 2 daughters. Lady Jean was married to the E of Eglinton but died without issue. Lady Mary is still alive but unmarried. Bute Lindsay & Rob^t Lindsay Hamilton both died without issue. George succeeded his father as Earl and died in 1808 without issue.

The second Miss Home was married to a Crawford. The third, Jean, married

Cap^t Joseph Pringle & afterwards the Hon^{ble} Gen^l John Stewart & died without issue. Janet the youngest died unmarried. Of the sons of Geo Home of Kello, George Alexander & John left no issue. Cap^t William the third son married an English lady by whom he had two sons and a daughter. W^m the eldest entered into the Russian military:- what became of him is not known. Grant the 2^d son was a lieutenant of marines & died without issue. Wm their Father was killed in the wars in Germany when a young man and the Children were kept by their maternal Grandfather.

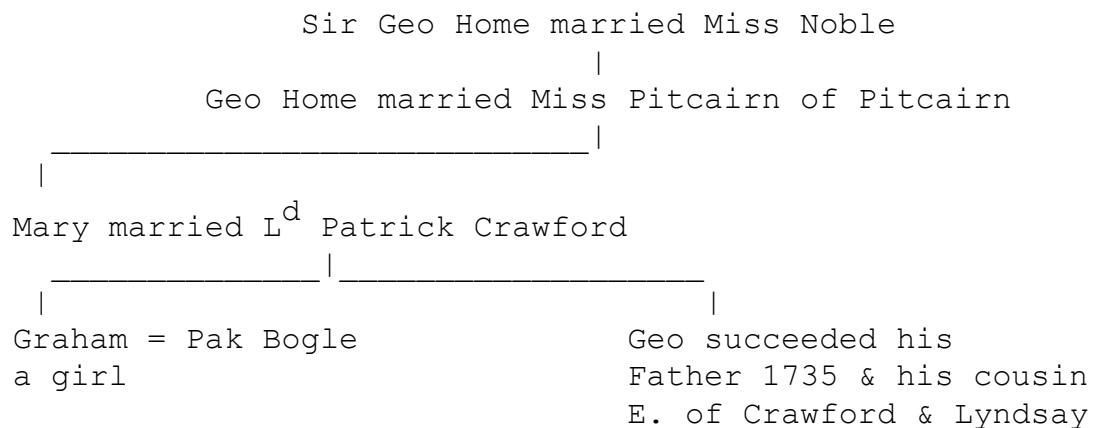
George Home died in ~~1783~~ 1743 & was succeeded by his eldest son David who married Ann Campbell daughter & coheirress of Major Campbell of Monktonhall. Her mother was Miss McGregor daughter of Sir Evan McGregor of Newhaven. By Miss Campbell David Home had five sons & three daughters. Of the sons George D_____ Peter Campbell & Walter died without issue. His son David married Ann Mitchell daughter of Mr Mitchell & Christian Brown daughter of Dr James Brown son of Sir Geo Brown of Coalston[?] & the daughter of the Earl of Cromarty.

David Home had 2 sons & 2 daughters. George Lindsay Home and Anne died young. Dr David Home the eldest son married Miss Lilley, daughter of Graham of Mossnow Dumfriesshire. He died in 1790[6?] without issue & in him the heirs male of Sir Geo Home of Kello became extinct when the resⁿ [=reversion?] devolved upon David Home Buchan his nephew son of Jean Home daughter of David Home. Mr Buchan's father died in Jamaica in 1794. He was son to Thomas Buchan who was son of Thos Buchan who came from Aberdeenshire & had considerable property which was afterwards sold by his son Thomas.

Of the three daughters of David Home of Kello son of Geo Home of Kello Elizabeth & Smollett died without issue – Janet married Saunders by whom she had 5 daughters none of whom had issue except Janet who married Adie Merchant in Edin by whom she had John Adie.

David Home son to George having killed Belches of Invermay in a duel fled to France where he was at the time of his Fathers death – one estate after another was sold - & Jean & Janet his sisters pretend a number of debts ag^t their Father seized upon the lands in Shetland the houses in Edin & Monktonhall which came by the Campbells was sold for a trifle –

[In the margin is drawn the following diagram:]



[Crombie was perhaps the author of the document, probably a lawyer.

It's reasonable to suppose that the document is of a similar date to the Home family tree scroll - so later than September 1822.

Lady Mary, daughter of the 21st Earl of Crawford, is mentioned in the [Wikipedia article on Crawford Priory](#). Another [source on the Priory](#) states she died in 1833 (and provides significant additional information about her). She is mentioned as living in this document, so this means the document pre-dates 1833.

[Cracroft's peerage](#) has more comprehensive genealogical information about the Earls of Crawford, and the children of the 21st Earl. From this it is clear that the son beginning with B is "Bute".

Grant Home is listed in [LOA1798] as a 1st Lieutenant of Marines on half pay in 1798

David Home Buchan was the author of a poem "The Battle of Waterloo" published in 1816.]

8. Copy letter

Lerwick May 1839

Mr William Sievwright

Sir

As owing to the inadequateness of the funds belonging to the Trust Estate of

my Grandfather the deceased Mr Robert Scollay to pay the annuity to my aunt Miss Scollay, my mother never could receive any part of the annuity due to her under his Trust Deed & therefore no part of the Debt due by me to the National Bank under my bill for £67.17/11 dated 16 May 1836 has ever been paid, and for the same reason no part of my Legacy bequeathed to me by my Grandfathers Deed of Settlement has been paid me, and I have therefore been unable to meet the claim by that Bank.

My mother having now died and my aunt Miss Scollay being now upwards of Sixty Years of age & the only means in my power for payment of that debt being my Legacy of Two hundred Pounds payable from my Grandfathers Estate so soon as the funds are relieved of my aunts annuity, I would beg to propose that the Cautioners of the late James ??????, who have now right to the Debt due by me take an assignation to my ?????? my Grandfather's Estate to the extent of the Debt due by me. I therefore request that you lay this proposal before the Cautioners & let me know the result

I am etc

[This copy letter appears to be in TMA's hand. The virtually indecipherable inscription on the outside includes a (erroneous) date of 1809 which may be why this document has been filed in the John Adie bundle. It appears that the writer was one of the children of Barbara Scollay (1789-1856), daughter of Robert Scollay (1764-1817). The oldest such child was Wilhelmina Jamieson, wife of Thomas Mountford Adie, and so it is possible (perhaps likely) that the original letter was written by her. The aunt referred to would be either Elizabeth Scollay (b 1788) or Ann Scollay (b 1792). The Scollay family lived in Delting, Robert Scollay being a merchant in Mossbank.]

9. Disposition Frances Fraser to Mrs Helen Laidlaw

Copy

Disposition

Frances Fraser
To
Mrs Helen Laidlaw
1811

[I have not transcribed this, as it is peripheral to John Adie's doings. The Disposition sells the house for £70. It goes into detail about the house builder and the land owner, and describes the house as "a shop or forerom fronting the street and a small back room or closet on the first floor one room on the second floor, and one room on the third floor, with a small area of vacant ground on the north thereof". The disposition is dated 25 December 1811 - ie Christmas Day!]

10. Representation for John Adie 1816

Representation
For
John Adie
1816
And
Account of Expences
Incurred by the Pursuer
Mrs Laidlaw

Unto the Right Honble Lord Gillies Ordinary
The Representation of
John Adie Surgeon Royal Navy presently
Residing in the Parish of Walls Shetland

Humbly Sheweth

That in the Action at the instance of Mrs Helen Laidlaw Midwife residing at

Summerhall near Edin. against the Representer, your lordship was of this date pleased to pronounce the following Interlocutor

28 Nov 1816 “Having heard parties p??? on the Pursuers Claim for Expences of process finds the Defender liable in said Expences and remits to the Auditor to Examine the Accounts thereof when given in, and to report.”

The Representer presumes to think that when the Circumstances of this Case, and the Conclusions of the Summons are duly Considered, it will appear that instead of being found liable in the Pursuers Expences, he has a just claim to be indemnified of those which he has incurred and he therefore, takes the liberty of Submitting the Interloq. Above quoted to review.

The Short History of the case is as follows:-

12 Nov 1814 of this date, the Representer purchased from the Pursuer a Dwelling House in Tobago Street [Chris Adie, 10/03/2017, 14:38

An old name for part of what is now Morrison St - so perhaps not far from Adiefield], Edin. at the price of £105 Stg, of which £40 was to be paid immediately and the balance at the distance of 12 months, when the Title was to be delivered. Mutual Missives were signed (tho' not interchanged) by the Parties, to the terms of which your Lordships attention is requested.

The Representers Offer was thus expressed: “Edinr. 12 November 1814. Madam I do hereby make offer to you for the Dwelling house now possessed by you in Tobago Street Edinburgh the sum of £105 Stg whereof I shall pay £40 Stg immediately on your accepting this offer, and the remaining £65 I shall pay within twelve months from this date, with interest of this last mentioned part of the price from this date ??? paid. The Title Deeds Consisting of Six numbers, I agree to hold as a Sufficient Progress. The Disposition and Conveyance (which is to contain all the usual Clauses) you are to deliver to me when I pay the last mentioned part of the price and the same is to be made out at our mutual expence, that is, you paying the one half of the Disposition, and I engage to pay the other; my entry to be in the course of the ensuing week. You are to pay all Public Burdens up to this term of

Martinmas 1814 and I am to pay the same in all time thereafter. The Title Deeds in the meantime to be lodged in the hands of Mr Richard Prentice, Solicitor, for our mutual behoof, till the Disposition is delivered and the balance of the price paid as above; and Mr Prentice to make out the Disposition, a search for Incumbrances is dispensed with. Your answer Accepting this offer and the £40 to account of the price, shall bind both parties to the performance I am” etc

The following was the Ansr: “Edinburgh 12 Nov 1814 Sir I have considered your offer above written, and I do hereby accept the same and do bind myself to perform my part of the agreement; and I acknowledge that you have paid me £40 to account of the price, Conform to Stamped Receipt delivered to you. The Title deeds conform to the Inventory marked relative Thereto, are now lodged with Mr Prentice in your presence I am” etc

As instructed by the Pursuers Answer just quoted, the Representer paid the £40 in part of the price and obtained a Receipt for the amount. He likewise entered to possession of the House about the term of Martinmas 1814. He afterwards found however that the house was not Sufficiently large to accommodate his family; and he would therefore have been well pleased if the Pursuer would have Consented to take back the property on Condition of her being allowed to retain such a Sum out of the money which she had received as would Compensate any loss she might possibly have Suffered by the transaction. This Sentiment he Communicated to Mr Prentice the Pursuers Agent by the following letter “Shetland October 12 1814 [sic - should be 1815] Sir Having no particular use for Mrs Laidlaws house in Tobago Street it being far too Small for the accommodation of my family, and having no other property in Edinburgh to employ an Agent about, I should be glad to get rid of it upon any reasonable terms. I therefore, apply to you, knowing your influence with Mrs Laidlaw to transact this business which if you can get effected I empower you to retain £5 out of the Balance of the Settlement that may remain in your hands, but would by no means wish to Sacrifice on the whole transaction more than £20 Stg. House to be given up to her at Hallowmass. I think you will easily get it effected, by saying you

conceive her property unsafe my Estate having been Sequestered etc. If you get it settled, you can let me know when, on any Occasion, I can draw on you for the balance which will be £20 Stg; and with best respects I am” etc. This letter your Lordship will observe was dated a month before the time at which the balance of the price became payable. The Overture which it contained was certainly not unreasonable; but on 30th October nearly three weeks after its date, Mr Prentice wrote the Representer (as appears from a marking in the handwriting of Mr Prentice on the back of the Representatives Letter), that the Pursuer “refused undoing the bargain”

As the Pursuer had thus decline to accede to a Compromise on any terms, the Representer of course laid his account with paying the balance of the price, and getting a Title to the property. It soon became manifest however, that the Pursuer, wishing to avail herself of the temporary embarrassment of his affairs, had resolved not to put it in his power to pay the balance but entirely to deprive him of the property, and at the same time, to keep the £40 which she had received in part of the price as a pretended penalty or forfeiture on account of the balance not having been paid when it became due.

Accordingly she of this date 12 December 1815, exactly one month Subsequent to the period at which the balance should have been paid, commenced the present Action; and it is very material that your Lordship should attend to the Statement and Conclusion of the Summons.

The Summons narrates the Missive-Letters already mentioned. It then States that the Pursuer “received payment from the said John Adie of the said sum of £40 in part of the price, that the said John Adie thereafter entered into possession of the said Subjects, by himself or Tenants in his name, at the term of Martinmas 1814”; and after mentioning that “though he has since the 12 Nov last, when the balance of said price in terms of his Missive became due, been repeatedly applied to for payment with the Interest due thereon, yet he refuses, or at least delays, so to do”. It concludes to have it found and declared that the said John Adie, in Consequence of his failure to implement his part of the bargain, by paying up the said balance within the time stipulated in said missives, with Interest, has not only lost and forfeited all

right and title to the foresaid Subjects and that they are now again the Property of the Pursuer, but that he has also forfeited the above sum of £40 as a Solatium and in name of Damages to the Pursuer, for the injury she has Sustained by breach of Bargain, and that the said missives and all that have followed thereon have become void and null the same as if they had never been granted or Exchanged, and that it shall be lawful for the Pursuer to resume and enter into possession of the said subjects and Others aforesaid and to uplift the rents, Mails and duties thereof and to dispose of the same at pleasure, and the said John Adie and John Arron Tinsmith in Tobago Street, Tenants or Possessors under him, of the said Subjects, Ought and Should be Decerned and Ordained by ??? foresaid at the term of Whitsunday nex to flit and remove themselves, their families, Cottars, dependents, and goods and gear, furth and from the subjects and others foresaid, and to leave the same void and ???, that the Pursuer may by herself, or others in her name, enter thereto, and Possess and dispose thereof at pleasure.” There is also a Conclusion for the Expences of Process.

The Summons was serve on Arron, the Representers Tenant in the Subject upon the 14th of December as appears from the Execution; and upon the Representer himself, on the 23rd of January 1816, that is, about six weeks afterwards as is likewise instructed by the Messenger Execution.

It will be observed that the Conclusions of the Summons were not alternative, but absolute. The Pursuer did not conclude either that the Representer should pay the balance of the price agreeably to the missives between the parties or that the bargain should be declared null; but she concluded, that in respect of his not having paid the balance “within the time Stipulated in said missives” he should be found es ipso to have forfeited all right to the Subject, and not only so but to have forfeited a Solatium to the Pursuer the whole £40 which he has Confessedly paid to account of the price. And so far did the Pursuer carry the assumption upon which her libel proceeded that she Actually serrved on the Representers Tennant a Summons of removing Six weeks prior to the Representers Citation as the principal Defender in the Cause.

The Pursuer not having produced the material missive letters along with her Summons, the Representer's Agent, who has been desired Generally to attend to his interest in the Action, without being particularly informed of the Circumstances of the Case, thought it his duty to require inspection of the principal missives. He accordingly wrote 22 May 1816 the Pursuers Agent to this effect; and he received an answer in which after some Observations as to the Validity of the Missives Mr McKinzie says, "But Mrs Laidlaw will give your client no trouble in discussing that point if he will renounce the bargain allow her to retain the £40 and pay Expenses".

29 May 1816 The Missives were at last Lodged in Process; and the Representer afterwards put in Defences in which he stated 1st "That as the Missives founded upon do not bear that the sale in question was to be voided in Case the Defender should not pay the balance of the price at the precise period therein specified; and it is not alleged, that the Defender had declared his determination not to abide by the transaction when the balance became payable, it was irregular and incompetent for the Pursuer, in the Circumstances of the Case, to Commence an Action for having the sale annulled de Plano; more particularly at so very early a period as 12 December 1815 only one month subsequent to the date on which it is stated that the balance should have been paid. She should at the utmost, have sought implementation of the bargain, in the first instance, and Concluded for its dissolution only alternatively". 2^{ly} even though the bargain were to be annulled by your Lordship under the present Action, the parties must Obviously be mutually restored to their former Situations. If the Pursuer therefore gets back her property, the Defender must be entitled to repayment of the £40 which he is admitted to have paid in part of the price. The Missives do not State, that the Defenders failure to pay the balance of the price was to produce a forfeiture of the sum paid to Account or indeed to be attended with any penalty whatsoever; nor has the Pursuer instructed or appeared to instruct, that she has Actually Sustained Damages to any Extent, in consequence of such alleged failure."

8 June 1816 The Case was debated of this date when your Lordship was Clearly of opinion, that the Representer had not forfeited his right to the property by his failure to pay the balance of the price within the time Specified in the Missives but that he was still entitled to pay that balance and upon making payment, to demand a Title to the Property. You accordingly desire to know whether he was disposed to pay the balance but as the Missive Letters had been lodged in Process only on the 29 May from which date exactly 8 days had elapsed, his agent had of course had no opportunity of Corresponding with him upon the Subject; and your Lordship pronounced as follows: "Having heard Parties Priors, before further Answer appoints the Defender to be ready within 14 days to say whether or not he is willing to implement the bargain."

25 June 1816 The Case was again enrolled of this date when the following procedure took place "Gillies in behalf of the Defender now Stated his willingness to implement the bargain. Jamieson for the Pursuer stated her readiness to Grant a Disposition and implement the bargain on her part. The Lord Ordinary appoints the parties within Eight days to implement the bargain to each other."

It was agreed between the Representer and his agent Mr Small, that the latter, who could turn the property to better advantage than the Representer, living at a Great distance, should become the Purchaser and take the Conveyance in his name. 28 June 1816 Mr Small was shown the title Deeds of the Subject which he afterwards returned to the Pursuers Agent with a letter from the Representer authorising the Disposition to be granted in his favor. He concluded his letter by saying "You will please to direct Mr Prentice to send the Draft to me for revisae as soon as he pleases and I shall be ready to pay the Balance or Consign it in the hands of any Bank you please until the Disposition is signed"

The Draft of the Disposition having been prepared by Mr Prentice and revised by Mr Small, was returned to the Pursuers Agent Mr McKinzie in order to be Extended, and the Representers Agent expected the transaction

to be immediately settled 9 July 1816 to his Surprise however he received from Mr McKinzie a Letter of this date in which he says: "As there can be no doubt that Mr Adie is liable in Expences to Mrs Laidlaw, I enclose copy of the account thereof that the same may be settled at sametime with the balance of the price." The account amounts to no less than £19 10.7½. 17 July Not long afterwards, Mr Small again heard from Mr McKinzie with a State of the Pursuers Claim against the Representer Amounting (the Expences of Process being included) to £91.17.3 Sterling

The Representers Agent was humbly of opinion that the Pursuers Claim to Expences could never be Sustained; and even had he thought otherwise, he held it to be clear, that as the point of Expences had not been Determined it was the Duty of the Pursuer upon receiving the balance of the price and Interest to Execute the Disposition leaving it to your Lordship afterwards to decide that point. Under this impression Mr Small called twice upon Mr McKinzie intending to offer payment of the balance of the price and Interest; and not finding him at home he afterwards desire Mr Prentice to let him know that he would be ready to make such payment any day at 12 oClock forenoon when the Titles of the Subjects should be sent to be Exchanged, a desire which he likewise still more lately expressed to Mr McKinzies Clerk. 5 Aug 1816 After all this Mr Small could hardly have Expected to be accused by Mr McKinzie as he was in a letter of this date of having neglected to answer several letter requesting that an hour might be fixed for a Settlement of the transaction.

On his coming to town two days after Mr Small wrote Mr McKinzie alluding to the Circumstances which have been noticed and adding "I am ready to settle the balance at any time you please, I shall be at my Chambers till two oClock to day and every day this Week"

Tho' it is thus proved that the Representers Agent was always ready to pay the balance of the price and Interest on getting a Disposition of the Property, yet the Pursuer and her agent Mr McKinzie positively refused to accept of the balance and Interest, without also receiving the Expence of Process. The

matter therefore, necessarily lay over till the meeting of the Court; and the case was enrolled by the Pursuer for the purpose as stated in the notice sent to the Representers Agent of "Giving Decree in terms of the Lybel". Your Lordship However expressed your opinion that the Offer of the Representers Agent had been quite proper and you pronounced in these terms: 23 Nov 1816 "In respect both parties state their readiness to implement the bargain Ordain them to do so forthwith."

The Case was again enrolled by the Pursuer for the purpose of Debate as to Expences; but though the balance of the price and Interest had been paid, her Counsel stated that he has not been instructed; and your Lordship appointed Parties to debate against next Calling. It was at the Debate which took place in Consequence of this Order that the Interloqr of which the Responder complains was pronounced.

The Grounds in which the Representer resists the Pursuers claim to Expences and Conceives himself to be entitled to be relieved of his own expences, are those which are Stated in the Original Defence to the Action.

Supposing that the Action was well founded in so far as it Concluded to have the bargain between the parties declared null on the Ground of the Representer having failed to pay the balance of the price upon the precise day it became due, it is submitted to be clear, that the Conclusion as to the total forfeiture of the £40 which had been paid to Account of the price was quite extravagant. Your Lordship has seen that the Missives relative to the purchase contained no Stipulation of this kind. The £40 was to be paid, and confessedly was paid to account of the price. If the Representer failed therefore, to pay the balance, and if he forfeited his right to the property, he was Certainly entitled to repetition of the sum which he had paid. It may be indeed that the Pursuer had a right to Retain the amount of any loss or damage which she could qualify. Whether She could have insisted on proving the loss in the present Action, which Concludes, not for such damages as she might have actually Suffered, but for the Specific Sum of £40 as a sort of penal forfeiture seems at least questionable, but at all events, there

can be no doubt that her Claim of retention would have been limited to the amount of her real loss. Now it cannot be shewn that she had sustained one shilling of loss beyond the rent of the property, which for a year and a half extended to no more than £[blank] because the House could have been sold for just as much at Whitsunday last as the Representer was to have paid in terms of the Missives. At any rate, it can never be pretended, that the pursuers loss was nearly equal to the sum which the Responder offered to allow out of the money he had paid, long before the action was raised Viz £20 Sterling. Yet it has been seen that she not only refused to accept of this sum but at the distance of only one month from the period at which the balance should have been paid Commenced the present Action in which she insists to have it found that the Representer had forfeited the whole £40 by his failure on paying the balance upon the very day on which it became due in other words that he had forfeited almost one half of the price because it had not been convenient for him instantly to lay down the other half. And your Lordship will recollect, that this Singular demand was afterwards repeated by the Pursuers Agent, in his letter to Mr Small of 28th May last. The Representer begs leave to ask, whether, if the Parties had gone to proof, as to the extent of the loss which the Pursuer had Sustained, and if it had turned out (as it certainly would) that instead of £40 Sterling the loss was not nearly equal to £20 the sum she had rejected, he would not have been entitled to claim his Expences; He apprehends that this question can admit of only one Answer.

But in the next place, the Representer denies, that the Pursuer had any right to bring an action for annulling de plano the bargain between the Parties on no other Ground than that he had failed to pay the balance of the price on the very day mentioned in the Missives. It was no part of the Contract that the Sale Should be void in the event of the balance not being punctually paid; and there is no Law which declares that a failure of this Kind is to be attended with any Consequence, All therefore that the Pursuer could do was to instruct either that the bargain should be fulfilled or that it should be set aside. Upon this point as before Observed your Lordship expressed an opinion favourable to the Representer when the case was first debated; and it

is plainly to this opinion that the appointment on the Representer to say whether he would implement the bargain, must be ascribed. The Representer stated, that he would implement the bargain; and he has accordingly done so. The Pursuers Action therefore has virtually been dismissed. She insisted mordicas to have the sale intirely set aside, and the £40 paid in part of the price declared a forfeiture; and yet the Defence that the Conclusion of the Action Should have been Alternative, has been Sustained and the Representer found Entitled to retain the property on paying the balance of the price.

It was said that the Representer had been put to no expence and had suffered no loss by the Conclusion of the Action having been positive or absolute and not alternative. Even if this were the case, the Representer cannot see that the Circumstance of his being liable to pay the balance of the price, if a regular action was brought ought to Subject him in the Expences of an Action Confessedly irregular. The irregularity of the action was of itself a sufficient ground for refusing Expences to the Pursuer if not, for awarding them to the opposite party. But it is a very great Mistake to suppose that the Representer was not Injured by the mode in which the Action was raised. It Cannot be denied that he agreed to pay the balance of the price as soon as it was intimated to him that he had it still in his power to do so, and if the payment was not instantly made, it is obvious from the Narrative which has been given, that the fault lay with the Pursuer or her Agent, who positively refused to accept of the balance without the Expences of the process. The moment that the Pursuer said that She would take the balance without the Expences (which she did not do till your Lordships opinion had been taken on the point) he readily paid the money. It may fairly be presumend then, that had the Pursuer before raising the Action offered to take the balance of the price, or had she made the Conclusion of the Summons alternative the present question would never have come into Court; and the Representer Avers that it never would. It appears however to have Occurred to the Pursuer, that upon the elapse of the day on which the balance should have been paid, she was no longer bound to implement the bargain but was entitled to take back the property and to retain the £40 as a forfeiture or penalty; and from that

period she would listen to no other terms. Of this fact the Summons itself affords pretty good evidence. It is true that after the case had been debated, the Pursuer or her adviser seeing the absurdity of the Action did not oppose the appointment on the Representer which has already been noticed; but this it is Conceived is a tacit Confession that the Pursuer had intirely mistaken the nature of her Rights; while it in no degree remedied the evil to which the Mistake had given rise

Nor is the Expence to which the Representer has been put in in Defending himself against the Action, the only injury which he has suffered in Consequence of the Pursuer's erroneous Conception of her Rights. Your Lordship is aware that the Action contains a Conclusion of removing and was directed against the tenant in possession as well as against the Representer. You have also been informed that the Summons was served on the tenant about six weeks prior to the Representers Citation, and you have seen that the Missives in question without which the Represeenter could not possibly state Defences to the Action, were not put into process till 29th May last several days after the term at which the removing was to take place. In point of fact the tenant did remove leaving the house quite vacant; and as the Pursuer had taken Care to lock up the rent which he owed by means of an Arrestment he has Contrived to escape with the rent in his pocket. Even the Arrestment must appear to your Lordship to have been a very unnecessary Measure, when it is considered that the Pursuer had no less than £40 Stg of the Representers Money in her hands. But it is still more evident that without giving the Representer an option to pay the balance of the price, she was not entitled to serve upon his tenant a Summons of removing and thus to act as if it had already been declared that the sale to the Representer was null. By this proceeding the Representer has been deprived of a Tenant for the Current year and the loss which he will sustain will at least be £[blank] of which he ought surely to be relieved.

In these Circumstances it is with deference thought that the Representer has an unquestionable right to the whole Expences which he has been put in Defending himself against the Action; or at the very least to the Expences

which he has incurred since 25th June last, when he stated his willingness to implement the bargain.

May it therefore please your Lordship to Recall the Interlocutor Complained of, and to find the Representer entitled to his whole Expences or at least to such part of these expences as has been incurred since 25th June or do otherwise as to your Lordship Shall Seem proper According to Justice

[There follows an account of Mrs Laidlaw's expenses amounting to £19.11.7^{1/2}]

11. Testament of Anne Sanders 1827

[On exterior]

Testament Dative
Umql
Anne Sanders
1827

[Interior]

Testament Dative
Umquhill
Ann Sanders
1827

The Testament Dative and Inventory of the debts and sums of money which were addebted resting owing to Umquhill Ann Sanders who resided in Edinburgh at the time of her decease who died there upon the fourth day of February one thousand eight hundred and twenty five years Made and Given

up by John Adie Surgeon in the Royal Navy Nephew of the Defunct and only Executor Dative qua nearest in kin Decerned to her and that by Decreet of the Commissaries of Edinburgh as the same dated the eleventh day of May Eighteen hundred and twenty seven years in itself bears

Follows the Inventory

The said Umquhill Anne Sanders had pertaining and belonging addebted resting owing to her at the time of her decease foresaid the goods and gear debts sums of money and others contained in the Inventory of her personal Estate given in upon oath by the said Executor and recorded in the Commissary Court Books of Edinburgh in terms of law upon the twenty first day of December Eighteen hundred and twenty six years which inventory is herein held as repeated brevitatis causa and extends to the sum of eighty six pounds nine shillings and three pence Sterling

Summa of the Inventory £86 9 3

James Gordon Thomas Tod George Ross and Charles Ross Esquires Commissaries of Edinburgh specially constituted for confirmation of Testaments Understanding that after due summoning and lawful warning made by public form of Edict openly as effairs of the Executors Testamentars of Umquhill Anne Sanders the Defunct before designed and all others having a????????y to have interest in the said matter all to have compeared before us judicially upon a certain day now byegone in the hour of cause That is to say to have heard and seen Executors Dative decerned given in admitted and confirmed to the said Defunct and in and to all and sundry her goods gear and others or else to have alleged with certification as effairs me Decerned therein as our Dereet of the date foresaid given there anent bears conform whereunto me in his Majestys name and authority make Constitute ordain and confirm the said John Adie only Executor Dative qua nearest in kin to the Defunct and in and to the debts and sums of money before written herein given up and confirmed allenarly with full power to him to uplift and receive the same grant discharges thereof if needful to pursue therefor and generally

every other thing thereanent to do that to the office of Executor Dative qua nearest of kin is known to belong Providing always he renders just count and reckoning of his intromissions therewith when and where the same shall be legally required Whereupon and that the debts and sums of money before written shall be made free and furthcoming to all parties having interest therein as law will Andrew Crombie Writer to the Signet became Cautioner as an act made thereanent bears Given under the seal of office of the Commissariot of Edinburgh and signed by the Clerk of Court the thirtieth day of May Eighteen hundred and twenty seven years

George [indecipherable surname]

12. Letter from Andrew Crombie, September 1827

John Adie Esquire
Surgeon
Voe Delting
Shetland

Copy

In the name of God, amen. Know all men by this present public Instrument, That upon the [blank] day of [blank] in the 1827th year of our Lord and eighth year of the Reign of our Sovereign Lort George the Fourth by the Grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith in the presence of me notary Public Conjunct Clerk of the City of Edinburgh and the witnesses subscribing Compeared personally upon the ground of the subjects hereinafter described an Honourable man [blank] one of the present Bailies of the said City. And then and there the said Bailie by virtue of his office Cognosced and entered John Adie Surgeon in the Royal Navy presently residing at Voe Delting Shetland as nearest and lawful heirs to the deceased Jean Home his great grand aunt, who was third

lawful daughter of the deceased Mr George Home of Kelloe Town Clerk of Edinburgh and sometime wife of Captain Joseph Pringle afterwards wife of the Honourable John Stewart Esquire brother German to the Earl of Murray and Colonel of a Regiment in the service of the States General, in all and whole the subjects hereinafter described, he, the said John Adie, being the only son of John Adie Grocer in the Grassmarket of Edinburgh and Janet Sanders his wife, who was the daughter of John Saunders Teller in the Bank of Scotland and Janet Home his wife who was the only daughter of David Home of Kelloe Writer in Edinburgh, who was the only son of the said deceased Mr George Home of Kelloe Town Clerk of Edinburgh father of the said Jean Home or Pringle or Stewart. And the said Bailie Gave and Delivered to the said John Adie heir foresaid, heritable state and sasine actual, real and corporal possession of the said subjects above mentioned vizt of all and whole that high tenement or dwelling house comprehending a hall, kitchen and gallery, with two high chambers or garrets and a cellar below lying at the foot of a turnpike near the head of the street called Liberton Wynd in the burgh of Edinburgh, which cellar is situated on the North side of the small court leading to the said Tenement. As the same was for many years possessed by [blank] Hardie Journeyman Printer now deceased and presently possessed by [blank] Hardie also Journeyman Printer his son which tenement is the uppermost house of the said turnpike, above a dwelling house formerly possessed by John Straiton Merchant and thereafter by [blank] between the tenement of the heirs of John Oliphant Merchant in Edinburgh upon the North, the tenement formerly of Mr John Sharp Advocate afterwards of the deceased James Hannay Apothecary and antiently possessed by Richard Guthrie Writer afterwards of Mr William Guthrie Writer and others upon the South, the tenement formerly of the deceased James Alison Merchant in Edinburgh and afterwards of Samuel Durham upon the west, and the public wynd or close upon the east, and wherein the said deceased Jean Home alias Pringle or Stewart stood infest and seased, conform to Instrument of Sasine in her favour under the hand of Umquhill Mr Joseph Williamson notary Public one of the Principal clerks of the Burugh of Edinburgh the third day of April in the year 1745 and recorded in his first Protocol of the same day; And that by delivery of Earth

and Stone and upon the grounds of the said subjects and ??? And ???
Thereof to [blank] as Procurators and Attorney for and in name and behalf of
said John Adie after the manner and custom of entering and infefting the
heirs of the proprietors of tenements within burgh to the Inheritance of their
ancestors in all points Salve Juro Cujuslibet [=saving the rights of all others]
Whereupon and upon all and sundry the premises the said [blank] as
procurator and attorney foresaid asked and took Instruments in the hands of
the said Notary Public subscribing These things were so said and done at and
upon the ground of the foresaid subjects betwixt the hours of [blank] of the
day month year of god and Kings reign respectively first before written in
presence of [blank]

Dear Sir

I wrote you on the 11th current, to which I refer, and I have since received
your letters of the 13th addressed to my Nephew Andrew, but brought to me
by his brother John. Seeing the difficulty, I might almost say the
impossibility, of your making up a title to the property in Gosfords Close by
service, and proving the propinquity from Mrs Jean Home your Great Grand
Aunt through so many different families, for a period of about 80 years, I had
again recourse to the City Clerks, and found that David Home Buchan who
died in possession of your property, had some time before his decease, been
cognosced as nearest heir in a property in the North side of the high street,
which he sold, which was an argument why you should be cognosced here in
the property to which you succeed - and the clerks have accordingly ha???
Me draft Cognition and sasine, of which I now send you a copy. This gives a
distinct description of the upper flat and garrets of the Tenement which has
two entries Vizt from Libertons Wynd and the Court from Gosfords Close on
the west. This you will see at the marking by a X. But observe what follows
and a cellar below lying at "the foot of a turnpike near the head of the street
called Liberton Wynd" - Now you are in possession of a laigh house situated
on the north side of the Court leading to the Tenement from Gosfords Close,
which is several steps below the ground which must either refer to the cellar
pertaining to property belonging to you at the top of the stair, otherwise I do

not see what Title you have to the laigh house which was long possessed by an old man of the name of Hardie, a journeyman Printer, thereafter by his widow, and now by his son James Hardie.

Whatever observations you may find necessary to make regarding the Titles be pleased to make them with as little loss of time as possible, that your title may be made up and you put in a condition to sell to the Trustees for carrying through the new improvements.

I enclose the Promisary Note by the Commercial Bank to Miss Adie, and I think if you put your name upon the back of the Cross the bank might make out such a receipt above the subscription as should satisfy the Manager. — I am

Dear Sir
Your Mo. Obt Servt
And Crombie

13. Letter from Admiralty, June 1829

Admiralty-Office, 6th June 1829.

Sir

I am commanded by my Lords Commissioners of the Admiralty to acquaint you, in answer to your letter of the 31 Ultimo, that direction has been given to remove the Respite standing against your Half Pay in compliance with your request.

I am, Sir, Your very humble servant

[Signature illegible]

Mr John Adie
Surgeon R.N.
Shetland