

FEBRUARY 18. 1795.

LS/114

PET.—MARGARET HALCRO,

FOR A

*Warrant on William Young, Factor
on the Estate of Cowbister.*

Sir J. Colquhoun, Clerk.

Alex. Walker, Agent.

Y

UNTO THE RIGHT HONOURABLE

The Lords of Council and Session,

THE

P E T I T I O N

O F

MARGARET HALCRO, Relict of the deceased *Joshua
Johnston*, Writer in *Stromness*, one of the Heirs-
Portioners of the Estate of *Cowbister* ;

HUMBLY SHEWETH;

THAT by a deed of settlement and entail of this date, which Feb. 13. 1770
was duly recorded in the register of tailzies, the deceased Aug. 8. —
Doctor Hugh Halcro conveyed, under the conditions and
feters therein mentioned, his estate of Cowbister to his son Wil-
liam Halcro, and to the heirs of his body ; whom failing, to his
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four sisters, Margaret, Cecilia, Jean and Mary Halcro, and the heirs of their bodies; and the shares of those dying without heirs of their bodies, to the survivors or survivor, or their heirs, equally.

This deed vested the management of the estate in the petitioner Margaret Halcro and her late husband, and in Jean Halcro another of the sisters, and in the survivor of them, during the minority and absence of William Halcro the institute, who was then in Jamaica. They were also appointed tutors and curators to him; and the deed likewise granted a special power to them to borrow money upon the estate, in order to pay off any debts that might be due by Dr Halcro.

Dr Halcro died soon after executing this deed; and the late Joshua Johnston, the petitioner's husband, uplifted the rents of the estate for some time, as factor thereon, out of which he paid several of the debts due by the granter, and also maintained William Halcro the institute, who returned to Scotland, but died in November 1786 unmarried; and by that time his aunts, Jean and Mary Halcro, were also dead. Jean died without issue; but Mary having married William Sands, she left two children, a son and a daughter: the succession therefore devolved on Margaret Halcro the petitioner, on Cecilia Halcro her sister, and on Thomas Sands, the son and heir of Mary Halcro, the other sister.

In order to preserve the estate from diligence, the tutors of William Halcro, in consequence of a clause in the entail, borrowed from the deceased Andrew Cruickshanks, merchant in Stromness, 350l. Sterling, for which they granted heritable security on the estate, and this enabled them to pay off a great part of the debts due by Doctor Halcro, the granter of the deed; but after this was done, the petitioner's late husband, in the course of his factory upon the estate, advanced considerable sums of his own, besides the free rents, to pay off the other debts.

The other two heirs-portioners, Cecilia Halcro and Thomas Sands, brought an action of compt and reckoning in this Court against the petitioner's husband, for his intromissions as factor upon the estate of Cowbister, which has depended for some time before the Lord Stonefield Ordinary, and in which there is no doubt that there will ultimately be found due to his heirs a considerable balance arising due upon these accompts.

In the course of this process a petition was given in to your Lordships to sequestrate the rents of the estate of Cowbister, and

to appoint a factor thereon, with the usual powers. Accordingly your Lordships awarded sequestration, and appointed William Young, writer in Stromness, to be factor.

The factor's accounts have been transmitted, from which it appears that the total rental amounts to 333l. 1s. Scots in money, 61 lispunds 15 merks butter, 128 meills 1 setting 18 merks malt, 88 pounds of lint spun into yarn, 34 half fathoms of peats, and 211 poultry, which, at the usual conversions, amount to 124l. 8½d.; and besides this, the factor informs, that, one year with another, 14 tons of kelp may be obtained from the shores of the estate, which, after deduction of all expences, may be considered as yielding with certainty 40l. Sterling; in all 164l. From which must be deducted duties to the superior, cess and stipend, amounting to 31l. 18s. 6¼d., leaving neat rent 132l. 2s. Sterling.

The only heritable debt on the estate, is the security already mentioned, granted by the tutors of William Halcro to Andrew Cruickshanks for 350l.; and any other debts due by the estate, according to the petitioner's information, will not exceed 300l. The annual interest of the whole, therefore, will only amount to 32l. 10s., which being deducted from the above sum of 132l. 2s., leaves an annual surplus, to be divided among the heirs-portioners, of 99l. 12s., who being three in number, this surplus will consequently yield to each of them 33l. 4s.

On these grounds, the other two heirs-portioners, Cecilia Halcro and Thomas Sands, of this date applied to your Lordships June 12. 1792 for a warrant on the factor on the estate of Cowbister, for an interim sum in name of aliment; and after going through the ordinary procedure in such cases, you were pleased, of this date, on July 10. — a report from Lord Stonefield, to allow the sum of 20l. Sterling to each of the said Cecilia Halcro and Thomas Sands, in name of aliment, and a farther sum of 20l. Sterling towards defraying the expence of the process in which they were engaged.

Another petition was presented to your Lordships for the said Thomas Sands and Cecilia Halcro, two of the heirs-portioners, of this date, for a warrant on the factor, to make pay- Feb. 15. 1794 ment to each of them of 20l. Sterling yearly, in name of aliment, during the sequestration; and appearance was made in this petition for the heritable creditor, who had also presented a petition for the bygone interest of the heritable debt, and for the year-
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ly interest thereof in time coming; and both these petitions being remitted to Lord Stonefield, it was agreed betwixt the parties that the heritable creditor should receive 150l. Sterling, as the bygone interest due upon the heritable security, and 17l. 10s. Sterling as the interest thereof yearly in time coming during the sequestration; and on the petition for the two heirs-portioners the following interlocutor was pronounced: 'The Lords, upon report of Lord Stonefield, and having resumed the consideration of this petition with the minutes, They grant warrant to, authorise and ordain William Young, factor on the estate of Cowbister, to make payment to the petitioners of the sum of 20l. Sterling each, yearly, in name of aliment; and decern.'

June 14. 1794

The petitioner Margaret Halcro, the only other heir-portioner upon this estate, has hitherto received no aliment from the rents, while the other two heirs-portioners have repeatedly applied to your Lordships, and obtained warrants on the factor for an aliment of 20l. Sterling each; and their last warrant, granted in June 1794, is to continue for that aliment during the sequestration.

It cannot be disputed that the petitioner is equally well entitled to the same aliment of 20l. Sterling yearly, after which, there will still be remaining due on each share of the three heirs-portioners, 13l. 4s. Sterling, to answer for factor-fee, or any other contingencies that may occur; and the petitioner apprehends, that she is entitled to have a warrant upon the factor for 50l. Sterling, as the arrears of aliment due her prior to June 1794, and for 20l. Sterling yearly thereafter, and in time coming, during the sequestration, to put her upon the same footing with the other two heirs-portioners, who have already received such warrants from your Lordships.

May it therefore please your Lordships, to take the premises into your consideration, and to grant warrant on William Young factor on the estate of Cowbister, to make payment to the petitioner of the sum of 50l. Sterling, as the arrears of aliment due to her prior to June 1794, and of the sum of 20l. Sterling yearly in name of aliment in time coming during the sequestration.

According to justice, &c.

MALCOLM LAING.

Edinburgh,

Edinburgh, 18th February 1795.

Betwixt the hours of 10 and 12 o'clock forenoon, I Anthony Mactier, clerk to Alexander Walker, writer in Edinburgh, doer for the petitioner, did intimate to Robert Boswell, writer to the signet, agent for Thomas Sands, one of the heirs-portioners of the estate of Cowbister, and the reverend Mr Robert Sands his grandfather and administrator-in-law, as also for Cecilia Halcro, another of the heirs-portioners of the said estate of Cowbister; and to Thomas Cranstoun, writer to the signet, agent for Mrs Margaret Cruickshank the relict, and for the children of the deceased Andrew Cruickshank, merchant in Stromness, the heritable creditors on the foresaid estate of Cowbister: That copies of the foregoing petition were to be put into the Lords boxes this day, in order to be moved to-morrow. This I did, by delivering to each of the said Robert Boswell and Thomas Cranstoun, a copy of the preceding petition, with a note of intimation to the effect foresaid, thereto subjoined, before these witnesses, William Gifford and Thomas Walker, both writers in Edinburgh.

ANTHONY MACTIER.