

Addressed to: Cap^t William Halcro of Bea

From: Mr George Andrew

Edin 30 May 1789

Sir,

I have considered M^r Joshua Johnston's papers which you put into my hands concerning the process at the instance of Tho^s Sands and his grandfather as his administrator in law against M^r Johnston, but have not yet seen the process itself which it is necessary I should do before I can pretend to give any explicit opinion on the merits of the case. I shall however borrow (?) it up and examine the proceedings attentively before the commencement of the ensuing session so as to be prepared to prevent the pursuers from obtaining any undue advantage of M^r Johnston. The nature of the process, on the supposition of the pursuers having produced a suppl^y title to carry it on, will render it incumbent on M^r Johnston to exhibit not only an acco^t of his intromissions with the rents of Coubister and any other funds to which the pursuer the heir of entail may have rights but also the vouchers of that account and the whole title deeds of the lands. The distance of M^r Johnston's residence and the risk attending their transmission here can afford no legal excuse for withholding them. No mans acco^{ts} where they fall to be vouch'd by written documents can be taken off his hand without them and every proprietor of an estate is entitled to see the rights and investitures thereof and to have the same delivered up to him unless the custodian has a right of hypo^{tr}ic thereon untill certain sums that may be due to him shall be paid. This right is in general competent only to practitioners of the law who in their line of business have become cred^{ts} to the persons whose writings are in their custody. It has not been explained in any of the papers which I have seen whether the minor pursuer is sole heir of entail or only a co-heir with one or more other heirs. If the last is the case the other heirs ought to concur with him and the want of their concurrence may be a good objection to the process because M^r Johnston ought not to be laid under the necessity of accounting with the diff^t heirs separately but with the whole at once. However that may be, I beg leave to recommend his embracing the first sane and convenient opp^y of transmitting the whole vouchers of his acco^{ts} as also the whole title deeds of the estate and other writings called for or wherein the pursuer have any interest. I shall on receiving them carefully examine the whole and produce in process such only as are necessary. It is to no purpose to be fighting the other party at long weapons by which time must be lost and much expense incurred, and of course to come to the merits of the cause as expeditiously as possible is by far the preferable course to be followed. These particulars you'll please communicate to M^r Johnston and assure him if he shall comply with what I have taken the liberty of suggesting I will gladly use my utmost exertions in bringing the cause to an issue favourable for him. I am sir your most ob^t serv^t.

Geo Andrew 1789