

the officiar, and offered to make faith that the goods were his, and did not pertain to C. This reply and summons will be admitted to the pursuer's probation, unless the defender will offer him to prove that the goods were C. his proper goods; in which case the probation will be given to the defender, in respect of the pouding; because it is ever presumed for the officiar, and that what he doth is lawfully done. Bal. § *ult.*

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LORD BALMERINO *against* His VASSAL.

A SUMMONS of declarator of liferent against an apparent heir not entered, sustained at Lord Balmerino's instance against his vassal, because it was thought that he could not lie forth to his prejudice.

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ROBERT HALIBURTON *against* LADY BOTHWELL.

ROBERT Haliburton, donator to the Laird of Coldingknows's escheat and liferent, pursued the old Lady Bothwell for a bond of 600 merks, (both principal and annual-rent since the first date,) granted by her to Coldingknows 1604;—it was found that the bond, being conceived after the form of heritable bonds, could not fall under simple escheat. Next, that the annual-rents, by virtue of the simple escheat, is only due to the date of the declarator, and not after. *Stio*, That the king's donator of a liferent-escheat has right to the annual-rents of an heritable bond whereupon no infeftment has followed, and which bears no condition of infeftment or annual-rent to be holden of any other superior.

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The DUKE of LENNOX *against* The TENANTS of St. ANDREW'S.

A LORD of erection may pursue for reduction of an infeftment, *propter non solutum canonem*, although his infeftment followed not many years after the cause of the reduction.

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ONE being in possession of lands and fortalice thereof, by reason of ward; the ward being expired, another got assedation of the same lands and fortalice from the heritor. This falling out between terms, albeit the donator could not be removed from the lands before the next term; yet he ought to deliver the tower and fortalice upon six days' warning, conform to our practise.

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