

1625. *July 22.* LADY COCKPEN *against* LORD RAMSAY.

MY Lord Ramsay having obtained a declarator of the Lady Cockpen's liferent, as being vassal to the Earl of Lothian, which liferent had fallen to him as superior of these lands; this was sought to be reduced to her upon this ground, That she having obtained an infestment of these lands from her husband, Nichol Ramsay, to be holden of himself, afterwards he disposed the same lands to the Earl of Lothian, with her consent, with reservation always of her right of liferent; so she contended, that, by that disposition, she changed not her holding, nor yet became vassal to the Earl of Lothian; and so her liferent could not fall *hoc modo*. The defender *à contra* maintained, that, by consenting to the alienation, she had renounced all former right, and that her reservation was but as a new grant. Nevertheless the Lords sustained the reasons of reduction.

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1626. *February 28.* ——— *against* DOUGLAS of CASHOGILL.

A DECRET being obtained against the executors and heir of a defunct, as being both holden as confessed for payment of a debt, and the summons not bearing that each one of them was convened *in solidum*;—the Lords ordained the decret to divide among them, and the executors to pay the one half, and the heir the other.

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1626. *March 22.* LEWIS SOMERVILE *against* The LAIRD of EDMONSTON.

LEWIS Somerville pursuing a declarator of the Laird of Edmonston's escheat upon a horning executed at his instance, the want of three touts was alleged against the horning. But the Lords sustained it to be proven by witnesses.

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1626. *June 17.* AUCHINDINNIE *against* JOHN MURRAY and his CEDENT.

ONE being made assignee to a debt; compensation being alleged by the debtor against the cedent, militates as well against the cessioner as the assignee.

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1626. *July 5.* ANDREW RIND *against* The LAIRD of CARSE MONTEITH.

AN old mortification of some kirk lands at the kirk of Ava, made to the Ab-

bot of Cambuskenneth *per Alexandrum Dominum Stirling*;—alleged, Never clothed with possession, and that the said Alexander never had right to these lands. Sustained notwithstanding. Page 217.

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1626. *July 6.* GRAHAM of CLAVERHOUSE *against* ALEXANDER LAWDER of NEWBIGGING.

IN an action of removing between Graham of Claverhouse and Alexander Lawder of Newbigging, The Bishop of Ross desiring to be admitted for his interest, produced for instruction thereof a contract between Alexander Lawder and him, whereby the said Alexander was bound to infest him in his lands. The Lords found, that it, being only a personal bond, could furnish him no interest in a real right, and therefore would not admit him, unless he produced his sasine following upon the contract. Page 180.

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1626. *July 11.*

N. being constituted assignee by M. to a certain sum, chargeth the debtor therefore. Excepted, The charge was null; because the assignation was posterior to the charge, and so *filius ante patrem*. Replied, Ought to be repelled, in respect of the concurrence of the cedent. Which was sustained.

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1626. *July 11.* MACKCULLOCH *against* MACKCULLOCH.

IN a declarator of bastardy between Mackculloch and Mackculloch, the summons concluding likewise that the King and his donator should be declared to be *ultimus hæres* to the defender Mackculloch: Excepted, That there was an heir served to him. Replied, Not relevant, unless he had been retoured before his death also. The Lords found, that howbeit the service alone would give no action to a man to pursue by virtue thereof, yet, in this case, it might furnish an exception to the defender, while it were taken away *prout de jure*.

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1626. *July 12.* WILLIAM DOUGLAS of IVELY, and CRANSTON of MORESTON, SUBVASSALS to JOHN STUART in the LANDS of COLDINGHAM, *against* The EARL of HOME.

ANY sub-vassal infest in the property of lands, though base, may remove all impediments which may hinder him to brook, and, consequently, may reduce any other infestments granted to any whomsoever. Page 349.