

virtue of a decret obtained before the Dean of Guild, before his assignation, desired to come in with him *pari passu*, as being equal in diligence. The Lords preferred the assignee, in respect that the sums being small, and in sundry hands, he used intimation to some of them a day before the arrestment; and to the rest the day following the arrestment, wherethrough they thought his diligence greatest.

*Page 19.*

---

1627. *February 2.*

A DONATOR to a simple escheat hath right to no more than appertaineth to the rebel the time of his gift: And now the treasurer useth to cancel that clause in all gifts, (with all that ever they shall acquire during the rebellion,) so that the King may gift the simple escheat many times and to many persons, till such time as he lie year and day at the horn; after which all falleth under his liferent escheat.

*Page 100.*

---

1627. *February 9.*      BISSET *against* FORBES.

IN an action of registration, pursued by Bisset against Forbes, as son and heir to his umquhile father, at least lawfully charged to enter heir, at least successor to his father's lands and heritages, *titulo lucrativo*, at least who hath behaved himself as heir to his father, by intromission with his heirship-goods and gear;—it was alleged, No process till summons were continued. Replied, Not necessary; because he insisted first upon that alternative, as lawfully charged to enter heir, which he verified by writ. Duplied, Let him pass then from the rest. After he had refused to do that, then the defender offered to renounce. Triplied by the pursuer, He could not, because he offered him to prove, that he had behaved himself as heir. Then the defender said, he behoved to continue his summons, that being one of his alternatives. The pursuer contended, he needed not, because he alleged it only by way of reply: yet it was found he should continue.

*Page 318.*

---

1627. *February 10.*      WILLIAM DOUGLAS of Blaikerston *against* The TENANTS of COLDINGHAM.

WILLIAM Douglas of Blaikerston, as donator to the liferent-escheat of John Stuart, and having obtained general declarator thereupon, intented a removing against the tenants of Coldingham, (which is in effect a special declarator,) having produced only the general declarator to instruct his interest. It was al-

leged, No process upon the general declarator before the horning, whereupon it proceeded, were produced; because, howbeit the general declarator would suffice if he were pursuing the rebel, yet, having to do with the tenants, who were never convened in the same, the horning behoved to be produced; for they might, after inspection, object nullity against the same. It was found, no necessity to produce the horning.

Page 100.

---

1627. *February 12.* The EARL of ROXBURGH *against* KER of CAVERS.

THERE WAS a question agitated among the Lords, ament the acknowledgment due to the superior of adjudged lands; for Ker of Cavers, having some lands adjudged to him by decret of the Lords, charged the Earl of Roxburgh, superior of them, to infest him thereintill. He suspended, alleging, that he was not obliged to infest him while he got one year's duty of the lands, as in comprisings. Many were of opinion, that the Act of Parliament, ordaining one year's duty to be due to the superior in comprisings, should not be extended to adjudications, which would prove very prejudicial to creditors; and that they, coming in the place of the heir who refused to enter, could be restricted to pay no more than he would have done for entering of himself: others thought, that there was *identitas rationis* in both, and that there was no law to urge a superior to receive a stranger without a year's duty. But the question was not decided, because the charger offered to come in my Lord's own will.

Page 9.

---

1627. *February 16.* LORD SEMPLE *against* GAVIN BLAIR.

BETWIXT my Lord Semple and Gavin Blair, Found that the defender was not astricted to payment of one stone of wax and one pound of pepper, contained in his charter, *nomine blancæ firmæ*, unless it had been required every year at the time prefixed in the infestment.

Page 37.

---

1627. *March.* Robert Lumsden *against* The Tenants of Tilligreig.

MRS Robert Lumsden having obtained a decret of spoliation of teinds before the commissary of Aberdeen, against the tenants of Tilligreig, because, the quantities being referred to their oaths, they compeared not, and so were holden as confest;—they having suspended, and offering their oaths of new, the Lords would have Mr Robert to give his *juramentum credulitatis* upon the quantity of the teinds spulyied, what he believed to his knowledge and information they came to.

Page 95.