

And the like was found, 21st December 1634, *Young Lesmore* against *James Hutcheson*.

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1628. *March 13.* The LAIRD of LENNOX, and SOMERVELL, his Spouse, *against*
The PROVOST and BAILIES of EDINBURGH.

IN actions for making arrested goods forthcoming, if the party who was debtor be dead after the arrestment, his heir or executor must be summoned to represent him.

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1628. *March 13.* ———— *against* ————.

A PURSUIT being intended upon a writ, the defender alleged a new transaction, which was first referred to the pursuer's oath; and he being willing to depone, the defender resiled, and alleged he might prove his exception *prout de jure*. The Lords suffered the defender to resile; but ordained him to prove the transaction by writ, and no otherwise, seeing he had resiled from the pursuer's oath.

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1628. *March 13.* ALEXANDER KING, Advocate, *against* SIR WILLIAM BALLANDEAN.

IN a contract betwixt Livingstoun Lady Burghtoune, for herself, and as tutrix to Sir James Ballandean, her son, the said Sir James, with her consent, on the one part, and Master Alexander King, Advocate, on the other part;—the said lady obliges herself, during her lifetime, and, after her decease, the said Sir James and his heirs, oblige them, to pay an annualrent; and, in the clause of requisition, she obliged her, and the said Sir James and his heirs, in case they be required, to redeem the said annualrent, by payment of the principal sum and byruns. The said Sir James deceases. His son, Sir William, being pursued as heir to his father, after lawful requisition, to pay the principal sum and byruns; alleged, that his father and his heirs were obliged to no more but for the half, in respect that he and his mother were both bound, and not conjunctly and severally. The Lords found him bound for the hail! after his mother's decease, in respect his mother did only oblige herself during her lifetime; and Sir James was bound, he and his heirs.

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