

paid by one of the comprisers ; and, if that man's comprising be found null and reduced, the other compriiser that prevails shall refund to the other the year's duty paid out by him.

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1628. *July 16.* WILLIAM DOUGLAS *against* DOUGLAS of MAINES.

THE fulfilling of a contract of marriage may be pursued by the father of either party, being contractor, albeit the clause be conceived in the young folks' favours.

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1628. *July 16.* LORD YESTER *against* WIGTOUN.

ALL feu-land annexed, and all other feu-lands whatsomever, should be retoured and availed to merk or penny-land, that his majesty may know the owner thereof, and that the feuars be charged to pay their taxation, conform to their retour.—Ja. VI, Par. 14, cap. 229. The non-entry contained in the retour should be paid to the superior, (of lands not holden of the king,) before the superior be obliged to enter the vassal, conform to the retour. But all precepts, directed out of the Chancery, upon retours, should be past, in the old manner, to sheriffs and other judges ordinary, with the clause *capiendo securitatem*,——— and the party with present payment, in case the service be not found. Ja. VI, Par. 12, cap. 124, *in fine capitis*.

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1628. *July.* JOHN BALLANTYNE *against* JOHN MURRAY of HALMYRE.

JOHN Ballantyne having pursued for a declarator of the Laird of Drummellzier's escheat and liferent, John Murray of Halmyre, pretending a prior gift, was admitted for his interest, and litiscontestation was made in the cause. John Murray compearing, who, thereafter, dies or any more was done in the cause, John Ballantyne seeks this act of litiscontestation to be transferred against the heir of the said umquhile John Murray, to the effect he may get one to represent the defunct, and so go on in the principal cause. It is alleged by the heir of John Murray, No process ; because the principal party, Drumellzier, is not called in this transferring. It is answered by the pursuer, That there is no necessity to call him, seeing the transferring of this act can noways concern him. Which the Lords found relevant.

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