

1628. *July 18.* PEACOCK *against* PEACOCKS.

WHERE three executors are confirmed, and one of them, having intromitted with his own third part, departs this life, leaving the other two executors in life; a creditor to the defunct, to whom they were all three, *conjunctim*, executors, pursues the two executors, in life, for payment of the debt;—it was alleged by them, that the defunct executor who was intromitter with the third part of the executry, ought to be called, or some person to represent him. The Lords found no necessity, except the two executors in life would allege that all their parts of the executry would not suffice to pay the debt.

*Page 74.*

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1628. *July 19.* EARL OF MARR *against* HIS VASSALS.

MINORS are holden to give their oaths *post pubertatem*.

*Page 144.*

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1628. *July 20.* JAMES RULE *against* THE LAIRD OF AYTONE.

A CREDITOR to a rebel arrests his farms, and pursues the tenants for making of the arrested goods forthcoming. Compars one, who is made assignee to the donatar of the rebel's escheat and liferent, who had intended a particular declarator of the same farms since the arrestment; and, being admitted for his interest, alleges, He has right to the farms by his assignation. It was answered by the arrester, The assignee can be in no better case nor the cedent; but, so it is, the cedent took the gift to the rebel's behoof. The Lords found the assignee, constituted after the arrestment, was in no better case nor the cedent.

*Page 63.*

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1628. *July 22.* SMITH and HALSTOUN *against* WALTER HAY, Superior of Herriot Muire.

THE same found as in the case *Coupar against Kilkerran*, 1628, *March 12.*  
*Page 223.*

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1628. *July 23.* THE LADY EDNAM *against* HER TENANTS.

THE ground may be poinded for annualrents, the tenant's gear being thereupon; albeit their duties be less nor the said annualrent; and albeit the term of payment of the tenant's farms be not come.

An infestment of an annualrent out of a barony, extends to every part of the barony; and mills thereof, if any be.

*Page 10.*