

against them ; and therefore desired letters to charge Meldrum, their master, to produce them. Which desire the Lords granted.

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1629. *July 17.* ANDREW CALDWELL *against* ROBERT STIRK.

ANDREW Caldwell pursued Robert Stirk for a house-mail of a tenement in Dumfermling belonging to the pursuer, and that for the term betwixt Whitsunday and Martinmas, 1624. Alleged, absolvitor ; because the pursuer sold the tenement to the defender before Martinmas ; and so he, being denuded by virtue of that disposition before the term, could pretend no right to the subsequent term's mail. Replied, That ought to be repelled, in respect the disposition was but immediately before the term, *viz.* the sixth of November, and the defender was not infeft till after the term ; likeas the money which was the price of the house, was not payable till after the term ; and so, unless the mail had been discharged, it is due to the pursuer. Duplied, In respect the pursuer had no right at the term, he cannot have that term's mail, unless it had been specially reserved. The Lords found the exception relevant.

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1629. *July 23.* ARCHIBALD MONCRIEF *against* ROSS of BALNAGOWAN.

AN action of mails and duties was sustained at a compriser's instance, because a comprising gives a man sufficient right to seek the mails, &c. although he be not infeft upon his comprising, if he hath to do with the tenants only, or with him from whom he has comprised, and not with another creditor who has done more diligence.

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1629. *July 29.* JAMES LANDS *against* JAMES DOUGLASS and ROBERT GEDDES.

JAMES Lands, as father and administrator of the law to his son Robert, heritable proprietor of a tenement in Edinburgh, sets, in tack and assedation, the same tenement to his brother, John Lands, for seven years, for the yearly payment, by him, of 675 merks. James Lands, being addebted in certain sums to James Douglass and Robert Geddes, makes assignation to them of the same tack-duty, aye and while they were paid : Upon which assignation they charge John Lands for payment of his tack-duty, who suspended upon this reason, That James, as tutor, &c. could not assign the tack-duty for payment of his own proper debts. Answered, As he had power to set the tack, being administrator to his son, so he might assign the duty. *2do.* This allegiance was not competent to the defender, who was obliged to pay to the cedent, and consequently to his assignee ; and as James, if he had received payment of the tack-