

creditor could not be prejudged by such an assignation. Replied, That the bond was heritable, and consequently might be assigned, notwithstanding of the Act of Parliament foresaid and the cedent's being at the horn. The Lords repelled the exception in respect of the reply.

*Page 21.*

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1629. *December 16.* The EARL of GALLOWAY *against* MAXWELL of HILLS.

IN an action of reduction and improbation, pursued by the Earl of Galloway against Maxwell of Hills, after the production was satisfied for both, the defender desired the pursuer's oath *de calumnia*, if he had just reason to insist in the improbation of the writs produced, thinking thereby, if he were free of the improbation, to let the pursuer have a decret of reduction against him for not-production, and to take up his writs produced, and pass from his compearance. The pursuer said he would insist *primo loco* in his reduction, and, when that were concluded, he would advise if he would take the writs produced to improve, or not. The Lords thought, that, if the defender would crave the pursuer's oath *de calumnia*, he would be obliged to give it *in communi forma*, upon the whole libel and reasons thereof together, and not upon any part thereof alone; so that he should only be compelled to swear, if he had just cause to pursue his summons as he had libelled them, but not if he had just cause to improve; which was but a part of his libel, and one reason among many.

*Page 167.*

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1629. *December 17.* DAVID BAILLIE *against* the LAIRD of LAMINGTON.

DAVID Baillie being convict of blood, by the Laird of Lamington, in his own court, was unlauded in £50; which decret was suspended by David, upon this reason, That a baron had no warrant to unlaud one in so great a fine; and therefore the Lords should modify it. The Lords thought that a baron had no less power in his own courts than a sheriff; and therefore sustained the decret.

*Page 25.*

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1629. *December 17.* DAVID SANDS, Petitioner.

WILLIAM Sands comprised a tenement in Culross, from Andrew Gibson, which comprising was allowed by the Lords, and letters ordained to be granted, at his instance, to charge the bailies of Culross to infest him. Before he got infestment he dies; after which his son, David Sands, being retoured general heir to his father, gave in a bill to the Lords that he might have letters to charge the bailies to infest him upon his father's comprising, sicklike as if his father had been alive. Which the Lords granted.

*Page 324.*