

1630. *February 3.* JANET SCHEIRSWORD *against* ROBERT BROUNE'S HEIR.

JANET Scheirsword, relict of Robert Broune, pursues the said Robert his heir, for the duty of the land of Knockmarloch, as pertaining to her by virtue of her contract of marriage; whereby her spouse was obliged to provide her in liferent, to all lands, tacks, and possessions that should happen to be acquired by him during the marriage, whereof the said lands were a part. It was answered by the heir, That unquhile Robert Broune acquired only the superiority of the said lands, in so far as, before he bought the same, they were wadset to another person, and were not redeemed while after the father's decease, by the proper monies of the heir, and so the property was not conquered nor acquired by the father, but the naked superiority. The Lords find the relict can have no right by virtue of her contract, but to the superiority.

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1630. *February 6.* ROSS *against* SCOTT.

IN an action of William Douglas's executors, pretending right to the teinds of Horselie, crop 1628, for spuiliation whereof the Lady Renton pursued her son; the spuilie of goods decerned against the havers of them in their [possession,] albeit it was not proven that the havers of them took them away.

This was among Highlandmen.

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1630. *February 8.* RONALD MURRAY *against* JOHN SHARP.

RONALD Murray, assignee constituted by Colonel Sinclair, pursues Mr John Sharp, executor to Sir William Sharp, for an annualrent addebted by the said defender to the Colonel's wife, relict of the said deceased Sir William Sharp. It is alleged by a creditor, No process upon the assignment, because it is null, being made by the Colonel, rebel, who remained at the horn unrelaxed. To the which it was replied, That the assignee was content that all the benefit of this action should be employed to the payment of the cedent's creditors. The Lords sustained the process at the assignee's instance, in respect of the declaration.

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1630. *February 10.* ROBERT KERR *against* The LAIRD of LIMPIDLAW.

IN an action of reduction of a comprising, deduced at the instance of the Laird Limpidlaw, against Robert Kerr, there was a reason libelled thereto, that, by a contract betwixt the said Limpidlaw and _____, it was agreed that none of them should dispone the apparent heirship goods that

should fall to them by decease of Harine, an idiot, without the consent of the other; and, in case of failyie, the party failyier should amit his half, and the same should accresce to the other; and so it was that Limpidlaw made disposition of his half, by the others' consent, to —————. To the which it was answered, That failyies, wherein parties receive no prejudice, are not sustained; and in this the other party can allege no kind of hurt nor prejudice done to him, seeing he made disposition of his own half. The Lords would not sustain the failyies, but absolved Limpidlaw from that reason of reduction, and yet ordained [him] to count with his party, if they had any thing to lay to his charge wherein he had wronged them.

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1630. *February 11.* TROTTER'S EXECUTORS *against* The TENANTS of JEDBURGH.

ONE Trotter had granted to him, in pension, during his lifetime, certain monks' portions of the teinds of certain lands pertaining to the abbacy of Jedburgh. He deceases in September 1629. His executors pursue for his pension. The tenants that were in use of payment alleged, That he deceasing before the term of payment of their rental-bolls, they were not obliged to pay them to his executors. To the which it was replied, That although the term of payment was not come, yet the teinds were due to the executors, seeing *fructus*, either in whole or a good part of them, were shorn before the pensioner's decease. Which reply the Lords found relevant.

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1630. *February 13.* The LAIRD of ROWALLAN *against* BOYDE'S RELICT and BAIRNS.

THE Laird of Rowallan intents a declarator against the relict and bairns of Boyde,—who had a tack of him for all the days of his lifetime, for payment of six pounds and his personal service on horseback when he should be required,—to hear and see them decerned to remove. The tacksman deceased about Martinmas. It was excepted by the defenders, That, seeing the defunct was tacksman, his relict and bairns could not be removed but a warning. It was replied, That, seeing liferenters by infestment may be removed immediately after their decease, much more a tacksman. The Lords found the exception relevant.

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1630. *February 15.* The EARL of ANNANDALE *against* DAVID RODGER, Minister of ST MUNGO'S.

THE Earl of Annandale pursues removing against Mr David Rodger, minister