

in the principal cause, is to have the pursuer's oath upon the verity of their exceptions. The Lords ordained the parties cited in the incident to give their oath upon the having of the writs, if they were present at the bar, but no otherwise.

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1632. *July 20.* A FRENCHMAN *against* The LAIRD of HALTOUN, Sheriff of Edinburgh.

MESSENGERS and parties are discharged, by Act of Secret Council 1623, to execute letters of caption on Sunday, or any other day, in time of divine service, within the kirk or kirkyard;—conform to the which, the Lords found a charge null, given at the instance of a Frenchman to the Laird of Haltoun, sheriff principal of Edinburgh, to take his brother on a Sunday, albeit he was in his company, and not in the kirk nor kirkyard, but going home from the kirk.

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1632. *July 24.* ————— *against* —————.

If a party comprises his debtor's lands, and neither obtains himself [entered] by the superior, nor charges the superior to infest him upon his comprising, but by consent of the heritor, the compriser obtained possession of the comprised lands; after this, the heritor from whom the land was comprised is denounced to the horn, and lies year and day thereat, whereby his liferent falls in the superior's hands, when the donatar pursues declarator of his liferent. The compriser compares, and alleges, That he comprised the lands for a just debt; and, by virtue thereof, came in possession before the heritor his rebellion, whereby the heritor was denuded of the property before the rebellion. It was replied, that a comprising without infestment or a charge given to the superior to infest upon the comprising, cannot prejudge a superior of his casuality; for a simple comprising cannot denude a superior of a superiority, without some deed be done by himself for that effect; but the rebel remains the superior's vassal aye and while some entered to his place. The Lords repelled the exception, in respect of the reply.

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1632. *July 25.* DAVID MITCHELSON *against* MR GEORGE LAW, STEWART, and OTHERS.

A PERSON having employed a messenger to execute letters of caption against a rebel, and the messenger being hindered and impeded, by others, to take the rebel, the creditor raises summons against the persons, impeters of the messenger, to hear and see them decerned to pay the sum addebted to him by the rebel. Which action the Lords sustained.

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