

lenge it for the blank filling, as accords of the law, in respect that it condescends not on the writer and filler up, which is a nullity by the Act of Parliament. The which the Lords admitted.

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1649. *June 27.* The LAIRD of BRUNTOUNE'S OY *against* The LAIRD.

IN the action for aliment at the oy his instance against Laird of Bruntoune, —it was excepted, That, although the oy was apparent heir to his father, who had died in fee, yet the Act of Parliament is only against wardatours, and drawn, by interpretation, against lady liferenters; and not where the goodsire, by contract of marriage, hath given a fee of all his lands to his son, with reservation of his liferent of so much; which could not be diminished by the son, although he had a numerous family, let be by the oy, whom he is not obliged to entertain. The pursuer alleged, That the goodsire got a great tocher, and the lady liferenter's mein portion was as it were bought. The Lords would hear it *in præsentia*.

This would be helped, either by an Act of Parliament, or a clause in the matrimonial contract, that women entertain the children till they may do for themselves.

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1649. *June 27 and 28.* ————— *against* WIDOW FYFE.

IN the process for heirship, the widow Fyfe had gotten two several commissions before, for giving her oath at Dundie, but, being defender, had neglected the same. Therefore, the Lords would give no farther commission; but ordained her to come and depone here specially, seeing there was no testimonial of infirmity.

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1649. *June 28.* GUTHERIE *against* The LAIRD of FENTRIE.

IN the exhibition pursued by Gutherie against the Laird of Fentrie, of a bond consigned in his hand, Major Scrimgeour, to whom it was made, called for his interest, excepts, that the bond was delivered to him and registrate, and so could not be exhibited. Yet the Lords would take then the Laird of Fentrie his oath anent the alleged condition whereupon the bond was put in his hand, he being *depositarius*.

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1649. *June 28.* HENRY LYLE *against* ROGER MOWAT, &c.

IN the action at the instance of Henry Lyle, for a legacy left to him by his  
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