

1677. *January.* ANENT DECREETS OF CONSTITUTION.

IT was questioned about this time, if I needed to have a previous decret for constituting the debt against the heir, where I mind to lead an adjudication of his predecessor's lands, where the heir is already served and retoured, and has already acknowledged the debt. It was alleged, none of thir could be the ground of a summary charge against the heir, without a decret. Yet the Lords leapt over this point of form, and sustained it as a sufficient ground of an adjudication, and ordained it to stand for a rule in all time coming.

*Advocates' MS. No. 537, § 2, folio 273.*

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1677. *January.* ANENT THE CLERKS OF SESSION.

SOME of the Clerks of Session, or their servants, have, in the scrolls of decreets of adjudication, conform to the act in 1672, when the party exhibited not the writs, adjudged the haill lands, and a fifth part more; by an absurd inadvertency that a fifth part more is only due where such a quantity of lands is only adjudged as is effeiring to the debt owing.

*Advocates' MS. No. 537, § 3, folio 274.*

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1677. *January.* ANENT DESTINATION OF LANDS.

AN heretrix of lands takes new infestment to her husband and self in liferent, and to the bairns of the marriage, without saying in fee; and which failyieing, the one half to the husband's heirs, and the other half to the wife's heirs; *Quæritur*, there being a son of the marriage, if he be heir of the whole lands? I think he is, because it was only *error et omissio scriptoris*. There is *minus dictum, et plus cogitatum menteque retentum*.

*Advocates' MS. No. 537, § 4, folio 274.*

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1677. *January.* LORD BAMFF *against* The LAIRD OF ROSA-SOLIS.

IN that intricate cause pursued this session by the Lord Bamff against the Laird of Rosa-Solis, the Lords laid little weight upon Bamff's letters to all and sundry, declaring that Where he had bought such a man's lands, and was to pay such a price, therefore, and on that reason, had subscribed blank bonds to that value, and declared he should be debtor to any whose names should be filled up in these blank bonds. He thereafter having acquired the gift of the liferent escheat of the seller of the lands, these bonds were found to fall under escheat, albeit he was bound by his let-