

1683. *March.* BAILIE GARSHORE *against* WEIR of DALRYMILLS'S RELICT.

THE Lords reduced a wife's provision, that was somewhat exorbitant, in her contract of marriage, *post contractum debitum*, to an annuity suitable to the husband's free estate.

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1683. *March.* The MARQUIS of MONTROSE, DONATOR of BUCHANNAN'S ESCHEAT, *against* His RELICT.

IN a contract of marriage, the general clause of parks was restricted to such parks as were not set for rent, but only used for pasturing the husband's own goods.

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1683. *March.* THOMAS CARGILL *against* JOHN TULLOCH and EARL of MARSHALL.

FOUND that a clause in the procuratory of resignation of a vassal's charter, That, how oft this escheat fell, it should be gifted to him gratis,—or a general clause therein relative to the provisions in a contract, whereof this was one,—is real against singular successors in the superiority. The like found, the same month; *vide* No. 431, [Earl of Marshall and John Tulloch against Thomas Cargill, March 1683.]

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1683. *March.* MR MATTHEW M'KELL *against* SANDILANDS and OTHERS.

IN a process for payment of a bond, at the instance of an assignee whose assignation was granted, without an onerous cause, by the cedent on his deathbed, and intimated before his decease;—it was alleged for the debtor, (with whom the cedent's nearest of kin and the commissaries concurred,) That the gratuitous assignation granted on deathbed, though it bears no *cogitatio mortis*, or *instans periculum*, must be reputed *donatio mortis causa*, and be confirmed; for, if such assignations on deathbed were sustained, without confirming, the bishop would be prejudged of the quot, and creditors would want the benefit of caution, in case the assignation were reducible upon the Act of Parliament 1621; whereas, if they be confirmed, the assignee confirmed executor would find caution, and other creditors would be allowed to compete with him. 2. If gratuitous deathbed assignations were allowed, dying persons would dispose of all their estate by assignations. 3. It was found, in the case of Rickart against Rickart, that money delivered in specie, *in lecto*, must be confirmed; and, for the same reason, sums assigned on deathbed are liable to confirmation. Ans-