

George Maxwell of Pollock against Kirkonnel,—the Lords found an apprising acquired by an apparent heir, during the legal, redeemable, within ten years from the time of acquiring, for what was truly paid for it, if it stood in his person till the legal were expired. The Lords found the apprising redeemable from this apparent heir, upon payment of the sums he truly gave for it.

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1685. *February 28.* SINCLAIR *against* SINCLAIR.

FOUND that payment of a debt by a debtor, or uplifting of mails and duties, in satisfaction of back tack-duties of an improper wadset, by virtue of an assignation from the debtor, after diligence was done against him by another creditor, did clothe a base right with possession, although the duties might be repeated upon the Act of Parliament 1621, as gratifications after diligence.

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1685. *March.* PATRICK HOUSTOUN *against* WILLIAM M'KIE.

ONE being pursued as *se gerens pro hærede* by intromission with the pursuer's deceased debtor's rents, he alleged, That he was but a second brother, and so could not be heir. Answered for the pursuer, The elder brother having been eighteen years abroad, without any account of him, is reputed to be dead; and so the defender is now apparent heir. The Lords sustained the defence, and found the pursuer could not, *hoc ordine*, call for the defender's intromissions, but ought to adjudge the lands, or arrest the rents.

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1685. *March.* WILLIAM BOGLE *against* BAILIE HALL and MR BOWDEN,
LONDONER.

IN the process of forthcoming, at the instance of one Bogle, who had arrested some tobacco in the hands of Bailie Hall, as belonging to William Johnston, the pursuer's debtor, compearance was made for Mr Bowden, who alleged, That the tobacco was his, and only consigned in the hands of William Johnston, as his factor and correspondent, and so could not be carried by an arrestment at the instance of Johnston's creditors. Answered, Possession in moveables imports a right; and it is three years since the tobacco came into Johnston's possession. The Lords sustained the allegiance made for Bowden as relevant.

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