1628. *February* 9. The LAIRD of WARD-HOUSE *against* The LAIRD of DUNKINTIE and his TENANTS in CHRIST'S-KIRK.

THE Laird of Ward-House pursued the Tenants of Christ's-Kirk, for payment of their thirled multures to him, and for doing of certain services, as leading stones to the mill, bigging of the dam, &c. Compeared the Laird of Dunkintie, and alleged, No process against the defenders, who were his tenants; because he was not summoned; which not being done, they could not constitute any servitude upon his tenants and lands. This exception, if it had been proponed for the tenants, was very relevant; but it was thought by many of the Lords, that he, compearing at the bar uncalled, could not be heard to allege that he was not summoned; yet the most part sustained the exception proponed by Dunkintie himself.

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1628. *February* 12. MARK KER *against* SCOT of HARTWOOD-MYRES.

IN a reduction of a retour, pursued by Mark Ker *against* Scot of Hartwood-Myres, for this reason, That the lands were retoured for a less duty than they should have been;—Alleged, That the process should have been in Latin, under the quarter seal, as was the custom in all reductions of retours or inordinat processes. However, the Lords sustained the summons, because the reason of reduction concluded not the inquest to have committed a wilful error.

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1628. *February* 14. WILLIAM JAMESON *against* SIR JOHN KER.

MR William Jameson, parson and vicar of Long-Newton, intented an action of reduction against Sir John Ker, for reducing of some tacks, set to the defender, of the parsonage and vicarage teinds of Long-Newton, by umquhile Mr William Henderson, parson there; and, for verifying of his interest, he produced his decreet conform. Alleged by the defender, That, before any process could be granted to the pursuer in that action, he behoved to produce likewise his gift and provision, and that, so much the rather, because it was not given by the patron, but by the Bishop of Glasgow, *jure devoluto*. And further, the decreet conform could not be a sufficient title to the pursuer to pursue by, because it bore not that the Earl of Morton, who was patron of the said benefice, was summoned thereunto. Replied, No necessity to produce his gift, although given *jure devoluto*; because, by our practique, a general decreet conform is a sufficient title to a beneficed person to pursue any action concerning his benefice, as long as it stands unreduced. *2do.* Where the decreet is alleged null, because the patron was not summoned thereto, it ought to be repelled, in respect of the decreet given against all and sundry, as is only customable to be done in seeking