

1628. *March 20.* The DONATOR of the LAIRD of DUNROD's ESCHEAT *against*
WALLACE.

IN a general declarator of the Laird of Dunrod's escheat and liferent; com-
peared one Wallace, and alleged, No process at the pursuer's instance till he were
paid of the debt owing by the rebel to him, because the horning upon which the
gift flowed was at his instance. It was found that this allegiance could not
stop the general declarator; but the donator being once constituted debtor by
the general declarator, then the creditor would have good action against him.

Page 149.

1628. *March 21.* BARBARA LOGAN, Relict of BERNARD LINDSAY, *against Her*
HUSBAND'S CREDITORS.

BARBARA Logan, relict and executrix confirmed to Bernard Lindsay, her hus-
band, raised a summons of sextuple poinding, wherein she convened her hus-
band's whole creditors, to hear and see her decerned to make forthcoming the
whole free goods and gear contained in the inventory of her husband's testament,
to them that should be found to have the best right thereto, and they thereafter
to be discharged of all further troubling and pursuing her for the same. Com-
peared the Laird of Dalmahoy and James Rae, and disputed which of them
should be preferred. Alleged for Dalmahoy, He ought; because, he being a
lawful creditor, had obtained decret against the executrix, gotten payment
conform thereto, and had given discharge. Alleged for James Rae, He ought;
notwithstanding of that decret; because, long before it, yea, before the confir-
mation of the testament, he had raised summons of registration against the pur-
suer, as universal intromissatrix with her husband's goods; in respect whereof
neither her posterior confirming of a testament, nor her summons raised, could
prejudge his action intended before: and for the decret, it cannot be respected,
being given by collusion betwixt him and the executrix, who is his good-mother,
she suffering a decret to go against her for not-compearance; whereas, for a
long time, she staid his action by her procurator's compearance, and keeping
of the pieces. The Lords preferred Dalmahoy notwithstanding.

Page 115.

1628. *March 25.*

Alleged, No process upon the summons, because the pursuer never libelled
what particular quantity of corns grew upon the particular lands, so that it could
not be known what the multures came to, (for the libel bore thus, *And true it*
is, that he, and he abstracted their whole corns growing on their lands of, &c. ex-
tended to so many pecks, &c. of multure.) The Lords sustained the libel, in
respect the particular quantities were referred to the defenders' oaths.

Page 207.