

1628. *January 13.* The LAIRD of GLEGHORN *against* His TENANTS.

TENANTS are never thought to be *in mala fide* to pay their duties to the master, albeit he has been year and day at the horn, and his liferent disposed to a donatar, who has only obtained a general declarator thereupon. But, after the citation in the special declarator, they may not pay to any other but to the donatar. [*Vide infra, 29th February 1628.*]

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1628. *January 13.* GRISSALL HAY *against* LORD HAY.

A WIFE's disposition cannot work in prejudice of her husband ; neither can any promise made by her, *stante matrimonio*, work against herself, if she survive her husband.

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1628. *January 14.* The LAIRD of AYTON *against* Row.

A COUNT, filed and subscribed by a master and his chamberlain, wherein the master rested to the counter a certain sum of money ; for the which the master being pursued, alleged the count, which extended to £1000, wanted witnesses, and therefore not obligatory. The Lords repelled the exception, except the master would deny that he had subscribed the count.

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1628. *January 17.* CAMPBELL *against* CAMPBELL.

A PARTY, as apparent heir, pursues for delivery of writs of certain lands. It is answered by the defender, That he has best right to the evident ; seeing the pursuer's father, to whom he is apparent heir, was bound, by contract, to infest the defender in the said lands by two infestments, one to be holden of himself and another of the superior. To the which it was replied, That the defender had accepted a feu-charter, to be holden of the pursuer's father and his heirs, and so had *tacitè* passed from the contract. The Lords ordained the evident to remain with the defender, notwithstanding of the acceptance of the feu-charter ; seeing the defender might yet charge for the infestment to be holden of the superior.

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1628. *January 17.* The HEIRS of the LAIRD of REIDHALL, Supplicants.

THE Lords use, at the supplication of the heir, to give commission to take up inventory of the defunct's gear and plenishing, but not to intromit.

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