

1628. July 4. JOHN BYRES *against* LAW.

AN heritor having a declarator of his vassal's nonentry, who was apparent heir of one that was infest, is decerned to remove, conform to a warning made by the superior, in respect the summons bore, that he pursued the removing as heritor, and having also the declarator of nonentry.

Page 193.

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1628. July 8. VISCOUNT DRUMLANRIG *against* SCOT.

AN intimation of an assignation made by a notary, without a procuratory, or the principal party himself then present, is not sustained.

Page 13.

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1628. July 9. ———— *against* ————.

LANDS holden of an earl, lord, baron, prelate, or any other freeholder, by a service of ward and relief, may not be set in feu, without consent of the superior, or their confirmation; and, in case any such disposition be made, the same to be null, either by way of action or exception; James VI, Par. —, cap. —.

Page 246.

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1628. July 9. NISBET of that Ilk, Sheriff of Berwick, *against* JAMES MOWAT, Clerk of the said Sheriffdom.

IF the judge controvert with the clerk upon an act of process, alleging the same to have been otherwise pronounced by him nor the minutes or signatures of the process bear, *non creditur judici nisi quatenus constat ex actis*.

Page 113.

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1628. July 11. WILLIAM DOUGLAS'S EXECUTOR *against* ————.

THE executors of umquhile William Douglas, who was donatar to John Stewart's escheat, and had obtained only, in his lifetime, a general declarator of his gift, pursued for teinds owing to the said John by ————. It was alleged, That the executors behoved first to transfer the declarator. The Lords found no necessity to transfer the general declarator, because it was only a declarator of their title; and that they might pursue John Stewart's interest to the said teinds, *cum processu*.

Page 74.