

1628. *July 23.* BOSWELL *against* CUNNINGHAM.

IN an exhibition of writs, the maker of them is not necessary to be called.
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1628. *July 23.* The KING'S ADVOCATE *against* CHAMBERS.

PENSIONS furth of erections, or temporalities of vacant benefices, since the act of annexation, declared null, notwithstanding of a confirmation or grant thereof in Parliament, or otherwise. Ja. VI, Par. 14, cap. 207.

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1628. *July 25.* GORDON of BUCKIE *against* MR JAMES RAITH.

A GIFT of escheat or liferent once taken to the behoof of the rebel ; yet, if a just creditor shall obtain the right thereof by assignation of the donatar, or translation from that assignee, he may lawfully use it for payment of his just debt.

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1628. *July 26.* CAMPBELL *against* PARISHIONERS.

An assignation to a tack of teinds gives interest to pursue for spuilie, albeit the principal tack be not produced, but offered to be produced, *cum processu.*

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1628. *July 29.* The EARL of MARR *against* His VASSALS.

IN improbations, after the defender has taken a day to produce, the Lords will grant certification, with condition, that, if the defender produce, before any other day condescended on, or assigned by the Lords, the production shall be received.

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1628. *July 29.* PATERSON *against* LADY COCKPEN'S TENANTS.

PATERSON, creditor to the Lady Cockpen, arrests her farms of the crop 1628, and pursues the tenants to make them forthcoming, in July 1628. It was alleged for the tenants, That the term of payment of their farms was not until betwixt Yule and Candlemas 1629 ; and she, being but liferentrix, might decease

before Martinmas, and so could have no right in that case, but to the half of the farms. The Lords ordained the process to ly over till after Martinmas, for the pursuer's diligence would make him to be preferred to all other creditors.

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1628. *July 29.* MR PATRICK MURRAY *against* LORD MADERTIE.

IN an improbation, a certification may be given against a writ, with declaration, that the same shall not be extended to a right made to a particular person, so that it may stand in part, and be decerned to make no faith in a part. In this action, a certification granted against the Lord Madertie's tack of teinds, was declared not to extend against Sir James Drummond of Mauchane's lands or teinds, contained in the said tack.

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1628. *July 30.* RICHIE *against* SINCLAIR.

SINCLAIR being pursued as universal intromitter with the goods and gear of a defunct, by Richie, a creditor to the defunct;—it was alleged by the defender, That he could not be convened as universal intromitter, in so far as he intromitted with no more of the defunct's goods and gear but with four picture boards, that he bought from another person a year after the defunct's decease, and that by contract. The Lords found the exception relevant.

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1628. *November.* ——— *against* ———.

AN assignation made by a minor, with consent of his curators, sustained to give action to the assignee, although the act of curatory be not produced *in initio litis*, but offered to be produced *cum processu*.

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1628. *February 21.* The EARL of MARR *against* The LAIRD of CASKIEBEN.

CASKIEBEN raised brieves to serve himself heir to Dame Isobell Douglas, Countess of Marr and Garioch, before the sheriff of Aberdeen. The Earl of Marr alleging him to be served *heir* to her already, and, by Act of Parliament, found to be nearest of blood to her, obtains summons, for advocating the service before the Lords, and to hear and see Caskieben ordained to serve his brieves before unsuspected judges, to be appointed before the Lords, and to hear and see all the brieves raised, or to be raised, by him, for the same effect; and all