

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