

The Lords repelled the allegiance, and ordained the suspender to enter the charger, reserving action for his non-entry allenary, *prout de jure*.

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1630. *March 18.* CHISHOLM *against* PRINGLE.

THE Lords sustain sometimes poindings and denunciations at places accustomed within regalities, albeit the same be not at the head burgh of the regality : as at the tree of Torphichen, for the regality thereof ; and at Kilope-gate, for the regality of Slaw ; albeit the town of Kirkliston be the head burgh of the regality.

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1630. *March 22.* JOHN SCOUGALL *against* ALEXANDER DOUGLAS and MARGARET INGLIS.

ALEXANDER Douglas and his wife Margaret Inglis are pursued by John Scougall, donatar to the escheat of Patrick Craigie, for certain merchandise coft by them from the said Patrick, whereupon decret was obtained against Alexander, as holden *pro confesso*, and against his wife, as confessing the debt. After Alexander's decease, John Scougall his executors charge his wife for the debt ; she alleges, That her husband's executors should be preferred, and that she ought not to be convened for any debt contracted by her, *stante matrimonio*, without her husband's consent. Which allegiance the Lords found relevant.

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1630. *March 25.* MR GEORGE FLETCHER *against* The LAIRD of CULTER.

Two donatars contend for the rebel's escheat : the first donatar's gift being *in anno* 1625, upon a horning *in anno* 1612 ; the posterior gift, *in anno* 1628, upon a horning posterior to the first. They both contend for the right to a bond made to the rebel *in anno* 1614. The first donatar alleges the bond to pertain to him, by reason his gift is posterior to the bond ; and so, by virtue of the tenour of the gift, bearing the king to dispone to him the rebel's escheat goods, pertaining to him the time of his denunciation, and now pertaining to the king, all the gear pertaining to the rebel from the time of the denunciation till the time of the gift of the escheat comes under the said gift, and consequently the said bond acquired by the rebel after his denunciation. The second donatar alleges, That no more comes under the first escheat but the goods and

gear pertaining to the rebel the time of his denunciation ; at the least, no more but that which pertained to the rebel within a year after his denunciation ; and all the rest which the rebel happened to acquire was at the king's dispensation, and pertained to the second donatar. The Lords found, That all which pertained to the rebel the time of his denunciation, or was acquired by him, and pertained to him when the first gift was given, did belong to the first donatar.

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1630. *June 19.* BISCHOPTOUN *against* ROWALLAND.

IN an action of improbation, a reply is proponed for sustaining of the pursuer's interest, and a day assigned for proving the same ; after which the defender passes from his compearance. His party alleged, That now, litiscontestation being made, he cannot pass from his compearance. To the which it was answered, That this proving of his interest was no litiscontestation in the cause ; and that he might as well pass from his compearance now, as if his interest had been produced *in initio litis*. The Lords found, He might pass from his compearance.

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1630. *June 22.* COLONEL BOG [OR BROG] *against* WILLIAM BAILLY and OTHERS.

COLONEL Bog pursues William Bailly and others, who had given advice to the said William to confirm William Brown's testament, to hear and see a bond of the said defunct William Brown's transferred against them, as universal intromitters with the defunct's goods and gear. It was answered by the defenders, That neither they nor the said William Bailly could be convened as universal intromitters, because there was an executor confirmed within year and day ; and the rest of the defenders, for giving of their advice and bonds to warrant the said William Bailly of any farther danger that he could incur nor his intromission conform to the testament, could give Colonel Bog, the pursuer, no action of transferring against them. Which exception the Lords found relevant, and discerned, transferring only against the executor confirmed.

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1630. *June 24.* The LAIRD of LESLIE *against* The LAIRD of PITCAPLE.

The duty of a teind, after the tack thereof is declared null, is ordained to pertain to him who pursues the nullity, no sooner nor after the declarator be obtained.

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