

1631. *January 21.* The LAIRD of LAMMINGTOUNE *against* The LAIRD of BLACKLIE.

THE Laird Blacklie having the rental of certain lands from the Laird of Lammingtoun, [to] whom he is addebted in the personal service used and wont,—he is pursued by the Laird for refusing to serve as he was required at divers times, and for ilk contravention to pay the sum of 1000 merks. It was answered by Blacklie, That no sum can be decerned against him, till it be first decerned by the Lords what personal service [he ought] to do, and the manner and quality thereof. The Lords ordained Lammingtoun to prove what service was used and wont to be done by the defender, and thereafter they would cognosce upon the failies.

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1631. *January 22.* CLOVERHILL *against* MUDDIE.

COMPRISING stays personal execution, if present possession of the lands be offered to the compriser by him from whom the lands are comprised.

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1631. *January 29.* HOME *against* HOME of CORSRIG.

THE executor of a defunct, who was intromitter with another defunct's goods and gear, as tutor ; at least, behaving himself as tutor, by a factory, granted to him by him who was tutor dative,—is pursued for a bairn's part of gear addebted by the minor to whom the said dative was tutor. The Lords found no process against the executor of the last defunct, but against the tutor.

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1631. *February 1.* ROBERT CALPIE *against* ROBERT KENNEDY.

ROBERT Calpie pursues Robert Kennedy, upon an irritant clause contained in his charter, to hear and see the feu decerned to expire. To the which it was excepted by the defender, That he offered him to prove, that he has paid, at sundry times, to the pursuer, as much money as will extend to the said feu-duty, which extended to £18 yearly. The Lords sustained the allegiance, to be proven *scripto vel juramento partis*, but no otherwise.

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