

1633. *December 6.* SIR JOHN STIRLING *against* PRINGLE of BUCHANE and the LAIRD of LUGTOUNE.

PRECEPTORS to hospitals, founded by laik patrons, or presentations to benefices, who have not *curam animarum*, need no admission nor collation.

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1633. *December 7.* JAMES M'GIE, TUTOR of BALMAGIE, *against* JOHN MAXWELL of DRUMCOULTRON.

JAMES M'Gie, tutor of Balmagie, comprised, from John Maxwell of Drumcoultron, certain lands, whereof the lands of Cocklix was a part; and, after the expiring of the legal reversion, pursues John Maxwell for removing from the said lands of Cocklix. It is excepted for John Maxwell, That he cannot be decerned to remove from the said lands; because, he offers him to prove, that the compriser was satisfied of the hail sums for which he had comprised, by intromission with the maills and duties of the said lands before the expiring of the legal reversion. To the which it was replied, That this exception cannot be received *hoc loco*, but he must be decerned to remove, reserving action to him for count and reckoning, when he should pursue. The Lords sustained the exception in this action of removing, the defender finding caution for the violent profits, in case of failing in proving of his exception after count and reckoning.

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1633. *December 13 (or 18th December 1632.)* ANDREW DALRYMPLE *against* The TENANTS of WATTERSIDE.

MR Andrew Dalrymple, having comprised certain lands, alleged pertaining to George Douglas of Watterside, pursues the tenants for removing. It is alleged, No process for removing; because the pursuer is not infest. To the which it was replied, That the pursuer, before warning, charged George Douglas of Watterside, father to George, from whom the lands were comprised, and superior to his son, to whom the father had given a base infestment, to be holden of himself; and, for not infesting of the compriser, had denounced him to the horn, and thereafter had obtained himself infest by my Lord Lowdown, superior to the said George Elder. To the which it was duplied, That this infestment granted by the Lord Lowdown, can be no title to pursue for this removing, the tenants paying the ordinary maills; because the same is granted both after the warning and after the intenting of this action. To which it was triplied, That the seasine ought to be drawn back to the time of the first charge, in respect of the pursuer's diligence. The Lords sustained the triply in fortification of the libel, *ad hunc effectum*, to infer removing at the next term of Whitsunday, the