

horning be used against the other two, except the pursuer allege that the third executor intromitted with as much as might pay the pursuer.

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1635. *February 15.* HEPBURN *against* HIS MOTHER and HIS BROTHER'S WIFE.

ACTION is sustained at the instance of an apparent heir against liferenters, for a modification for his aliment, albeit he be not served heir.—*Hepburn, Son and Apparent Heir to Sir Robert Hepburn of Barefoott, against his Mother and Brother's Wife*, Liferenters of all his Father's and Brother's Estate betwixt them.

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1635 [or 1633.] *February 15.* The EARL of KINGHORN *against* GEORGE STRANG.

AFTER an incident is used for proving of an exception, and the hail terms thereof outrun, the Lords grant no farther term, but hold the cause concluded, and give a short day to the parties to see the process in the clerk's hands, that, if the defender have any thing to produce, he may do it in that space; at the which day the Lords will advise the process.

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1635. *February 17.* LINDSAY *against* BLAIR.

HORNING, upon letters conform, where the charge is special, sustained, notwithstanding of the Act of Parliament, Ja. VI, Par. 12, cap. 140; especially where the party charged has been in use of payment of the duty charged for; but prejudice to the party charged, to reduce the horning *prout de jure*.

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1635. *February 27.* MARGARET AYTON *against* _____ WATSON, Relict of David Ayton of Kinglassie.

IN a contract of marriage, passed betwixt Mr David Ayton of Kinglassie, on the one part, and Captain Andrew Watson and his daughter, thereafter spouse to the said Mr David, on the other part, the said Captain Andrew was obliged to content and pay in tocher with his daughter, the sum of 10,000 merks, at Whitsunday after the marriage; and the said Mr David was obliged, at the receipt of the last 5000 merks, to employ the same upon land or annual-rent, to himself and his future spouse, and the heirs to be gotten betwixt them;