

tion against the debtor interdicted, his person and moveables. Which allegiance the Lords found relevant.

*2d MS. Page 122.*

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1637. *March 17.* COLLEGE of ABERDEEN *against* The LAIRD of MUCHOLL.

ALBEIT a kirk of the chapter be mortified to a college, yet the same ceases not to be member of the chapter; and, therefore, no tacks may be set pertaining to the kirk without consent of the chapter, albeit the said tacks be set with consent of the haill masters and members of the college.

*2d MS. Page 49.*

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1637. *March 17.* CAPTAIN WALTER STEWART *against* JOHN INGLIS.

CAPTAIN Walter Stewart arrests, in the hands of John Inglis, merchant, certain sums of money addebted by him to Colonel Stewart; and, by the first summons, to make the arrested goods forthcoming, he cited the said John Inglis and the Colonel, debtor to the said Captain Walter, for his interest; but, because the Colonel was furth of the country, he summons only John Inglis, by the second summons, for his interest. The Lords ordained the debtor to be summoned by the second summons; and, in the meantime, John Inglis to give his oath, in case he decease, whereby the pursuer may lose his probation; and thereafter the process to sist till the Colonel be summoned *pro secundo*.

*2d MS. Page 185.*

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1637. *March 21 and 25.* The EARL of TULLIEBARDEN *against* JOHN ROBERTSON.

PATRICK, Earl of Tulliebarden, having right, by assignation, to the gift of William Earl of Tulliebarden's escheat and liferent, first disponed to the Earl of Annandaill, pursues John Robertson of Tenendrie, for the feu-duties of Tenendrie, set in feu by the said deceased William Earl of Tulliebarden to the defender's father, Alexander Robertson; *or to see* the ground poinded for the same. It was alleged by the defender, That he could not be pursued for the feu-duty resting by his father during his lifetime; but the executors of his father must be pursued for the same. To the which it was answered, Ought to be repelled; because he is heir to his father, and may be pursued, *personali actione*, for the bygone feu-duty, or the ground may be poinded for the same. Which the Lords sustained.—*21st March 1637.*

Thereafter it was alleged, No process, at the pursuer's instance, who is not infest in the lands, but has only a disposition made to him by umquhile William, Earl of Tulliebarden, whereupon no infestment followed. Whereunto it was answered, Ought to be repelled; because, albeit the pursuer be not infest himself, yet, in respect his rights proceed from the disposition of Sir Archibald