

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

Stewart of Fumart, who is living, and standing infest in the lands, whose procurators concur with the pursuer;—the Lords, in respect of the concurrence, sustained the action.—*25th March 1637.*

*2d MS. Page 87.*

1637. *March 28.* ROBERT SCOT, YOUNGER of SALTSHELLS, *against* JAMES SCOT.

JAMES SCOT, son of the second marriage to Robert Scot of Saltsheills, takes the gift of his father's escheat and liferent. Robert Scott, younger of Saltsheills, eldest son of the first marriage, pursues reduction of the horning whereupon the gift of escheat and liferent is taken. The reason of reduction is, Because, in the execution of the horning, he is charged at his dwelling-house, but there is no mention made that six knocks were given by the messenger: likeas, the principal horning being produced, bears these words,—“after that I had knocked six knocks;” but the same is eiked to the margin of the executions lately, as is alleged, and after the said horning was registrat; which extract bore not the said words. To the which it was answered, That the horning was sufficient; because it was offered to be proven by the witnesses inserted, That six knocks were truly given, and these words were written on the margin before the horning was presented to the register; which was likewise offered to be proven by the keeper of the register. Which allegiance the Lords found relevant.

*2d MS. Page 96.*

1637. *March 28.* The LORD JOHNSTOUN *against* The EARL of NITHISDALE.

IN an action of removing pursued by my Lord Johnstoun against the Earl of Nithisdale for removing from the lands of Knock; after the action was disputed *in presentia*, and an exception was admitted to the Earl's probation, and an act of litiscontestation made; the Lord Johnstoun gave in a bill, desiring, that, before the act was extracted, he might take up his process, and the defender might have an extract of the interlocutor. The Earl contended, That, *hoc statu causæ*, he behoved to have out his act, and the process to remain in the clerk's hands till the conclusion of the cause. The Lords refused to grant the desire of the Lord Johnstoun's bill, in respect of the state of the process.

*2d MS. Page 186.*

1637. *March 30.* THOMAS PATERSON *against* WALTER MURRAY of LEVINGSTON.

THOMAS PATERSON, having comprised the lands of Cribbillaw from John Pringle, as lawfully charged to enter heir to the deceased Sir James Pringle of Gallowshiels; and, upon this comprising, having charged Walter Murray of Levingston, superior of the said lands, to infest him,—he suspends, upon this reason,