

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.*

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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.*

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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.*

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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,