

specially seeing the pursuer had another remedy, viz. might reduce upon the Act of Parliament; it being done *in fraudem*.

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1668. *July 11.* JOHN BORROWMAN *against* SIR ALEXANDER MURRAY of BLACKBARONY.

In a molestation, pursued at the instance of John Borrowman of Nether Stewartoun against Sir Alexander Murray of Blackbarony, for casting of turfs, and carrying them away to the place of Cringlety; whereas the tenants of Over Stewartoun were only in possession, but not the master; the defender was assolied: because he being heritor of Over Stewartoun, which lay runrig with the pursuer's lands, and the common pasturage being possessed promiscuously, the defender was content to restrict his possession in casting of turfs for him and his tenants, proportionally according to his property. Which the Lords found to be just.

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1668. *July 15.* The KING'S ADVOCATE *against* the VASSALS of INCH-JAFFRAY.

The King's Advocate pursuing the vassals and tenants of Inch-Jaffray for feu and teind-duties only for time to come; compearance was made for the Lady Inch-Jaffray, liferenter, and her daughter, who was heir to Mr Patrick Murray, who was commendator of the abbacy, and had a wadset both of the temporality and spirituality, aye and while he and his heirs should be paid of £1200 sterling; whereupon they having been ever since in possession, they craved to be preferred: Notwithstanding whereof, this action was sustained at the King's instance, and his Advocate's: Because the Lords found, That the right of commendator, granted to the said Mr Patrick, being but a temporary trust, expired with himself: And for the mortgage or wadset, they found it was not *habilis modus* to denude the King of the temporality; there being no act of dissolution, and infetment following thereupon; but a naked ratification thereof in Parliament; which was not sufficient: And, for the spirituality, there was nothing but a naked charter, whereupon no infetment followed, and to which the King had only a right of presentation.

The parties in this process, viz. Lieutenant-general Drummond and the defenders, were agreed before decision.

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1668. *July 16.* SYMINTOUN *against* SYMINTOUN.

ONE Symintoun, having given bond for provision of three or four children, of 1000 merks, to be paid within ten years after the date thereof; having long thereafter infet his eldest son in the fee of his estate, which was but 600 or 700