

containing a renunciation of all that his Lady, one of Duke William's daughters, could claim, save only this legacy of Mr Livingston's bond of £1000 sterling, now pursued for ; and the Duke to produce the obligation given by the heirs of line, that they shall relieve the heir of tailyie, also founded on.

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1683. *March 22.* The EARL of TWEEDDALE *against* The TENANTS of PINKY.

THE Earl of Tweeddale charger, against the Tenants of Pinky, reported by Boyne. The Lords found the letters orderly proceeded ; and sustain the Commissaries of Edinburgh their decret ; in respect of the probation, and the Act of Parliament 1633, modifying the teind to the fifth part.

Yet that Act was mainly for heritors and titulars, and not for masters and tenants ; and, though they were really damnified by that low valuation, (the fourth part being the true intrinsic value,) yet they had an ease by the over-running of the mettage of the acres, and were free of the expense they would have been put to in leading away their own teind.

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1680, 1682, and 1683. The EARL of MARISHALL *against* His WADSETTERS and VASSALS.

1680. *February 28.*—IN the Earl of Marishall's improbation against his vassals and wadsetters, it was ALLEGED for one, You cannot crave certification against my rights, because I offer to prove any title you pursue by is apprisings which were bought in by the Earl your brother's means, from whom I got my right, though they were taken in Major George Keith's name as trustee ; and so they must accresce to me in warrandice, *nam jus venditoris accrescit emptori.*

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1680. *June 10.*—The E., as he who hath acquired some comprisings upon that estate, pursues the wadsetters to count and reckon for their intronissions.

ALLEGED,—They cannot be liable, upon the 62d Act of Parl. 1661, to count for the superplus duties over and above the annualrents of the sums contained in their wadsets ; because this Earl's brother, when he was heritor, gave them a discharge thereof, as having counted to him for the same.

REPLIED,—This declaration and discharge of the debtor's cannot prejudice other creditors whose rights this Earl hath now, *ex titulo singulari*, acquired ; but they must account for the superplus, and not keep up their debts as unpaid, to seduce and debar other creditors (who are posterior,) from coming in in their just ranks.

This was taken to interlocutor.

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1682. *March 28.*—The Lords ordained this point to be heard *in præsentia*, Whether or not an apparent heir, acquiring in an expired comprising on his predecessor's estate, and by it calling the wadsetters to count and reckon for the superplus rents, more than pays them their annualrents, on the 62d Act, Parl.