

the dependance; the Lords refused both, being now in the end of the Session.
Vide 8th December 1686.

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See the posterior parts of the report of this case, Dictionary, page 12,081.

1686. *March* 30. FRANCIS KINLOCH *against* HAY of MONKTON and his BROTHER.

FRANCIS Kinloch gives in a petition against Hay of Monkton and his brother, craving the certification extracted by them *contra non producta* may be recalled, seeing he had offered to prove, by Monkton's oath, that he had papers in his hands, which *in græmio* excepted Francis Kinloch's lands, and he did not produce the papers themselves, but only deponed that his disposition excepted the back-tenement, but not the fore one.

The Lords would not recal the certification.

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1686. *November* 4. DOCTOR DONALDSON *against* SCOULAR'S HEIRS.

Doctor Donaldson pursuing the heirs of Scoular, factor in Rowen; the Lords found them liable to pay a bill of £154 sterling, on a missive letter wrote by them.

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1685 and 1686. JOHN JOHNSTON and EDWARD WRIGHT *against* BRUCE of NEWTON and BRUCE of KINNAIRD.

1685. *November* 19.—At Privy Council, Bailie John Johnston of Polton, and Mr Edward Wright, advocate, pursue Bruces of Newton and Kinnaird for a riot, in taking away the teinds of these lands; though they stood infest in them, and had a decret of removing. ANSWERED,—An inhibition is the only habile way to infer a spuilye of teinds, and not a decret of removing.

REPLIED,—This is not a teind between an heritor and a churchman, (where inhibition is used,) but a third and teind between master and tenant.

The Lords demurred on this point. *Vide* 11th November 1686.

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1686. *November* 11.—John Johnston of Polton, and Mr Edward Wright, advocate, his son-in-law, against Bruce of Newton, mentioned 19th November 1685. They, standing infest in his lands as creditors for great sums of money, pursue a removing: the other posterior creditors join with Newton, and OBJECTED, they had no right to remove him from the teinds, they not being apprised. ANSWERED,—He had comprised *omne jus*, which would carry the teind. *2do*, They were contained in a voluntary right they had.

Then they alleged payment; which was found relevant: but, in regard the the same was very improbable, they ordained the defenders to find caution for the violent profits *medio tempore*, seeing they stopped the removing.

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