

as a thing of a public nature, which regarded the policy and administration of the burgh.

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1741. *June 12.* CREDITORS of ROSEBERRY *against* ———.

LORD Roseberry disposed his estate to certain trustees for the payment of his debts; and this disposition, and the assignation therein contained, was intimated to all the tenants and possessors of the lands. This trust-disposition was afterwards reduced at the instance of some creditors who had not acceded to it. But, before that, a tenant of Lord Roseberry's, who was likewise a merchant, had made considerable furnishings to my Lord; and now, when the trust-disposition was reduced, and declared to have been null from the beginning, he contended that the rents belonged to my Lord, even after the disposition; and that he was at liberty to retain his rent in his own hand, and apply it to the payment of what my Lord owed him.

The Lords found, That the reduction, being obtained at the instance of creditors, could not operate against them; and therefore, that the rent in question was to be applied to their payment.

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1741. *June 12.* MOODIE *against* SIR JAMES STUART.

THE question here was about the quantity of an assythement, whether it contained only the expenses laid out by the relations of the defunct in the prosecution of his death, together with an aliment to those of his relations who stood in need of being alimented, and whom the defunct would have been obliged to aliment; or whether it did not likewise contain something *in solatium* to the relations for the loss they had sustained. This last the Lords found.

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1741. *June 12.* SPOTSWOOD *against* ———.

[Kilk., No. 6, *Writ.*]

THE Lords found, That a marginal note subscribed by the parties, but not attested by the witnesses or writer, was good and valid, being in favour of the granter of the writ, and against the custodier of it; so that there could be no suspicion of its having been unduly adjected, unless it could be proven, that, one way or other, the writ had fallen into the hands of the granter.