

The MARQUIS of HAMILTON *against* The LAIRD of SKERMURLY.

THE servitude of the fee of a crownship sustained upon an anterior infeftment of that office, with fees and continual possession of such a particular fee; albeit the same was not expressed in the infeftment.

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The SHERIFF of GALLOWAY *against* The TENANTS of SALSET.

The sheriff of Galloway, as being infeft in the bailiary of Salset, *anno* 1570, with the services of the tenants, pursued the tenants of Salset for certain services libelled, such as two threaves of straw and a hen out of every plough, so many shearers, &c. Alleged for the Earl of Cassils, master of the ground, That his tenants could not be obliged to do such services; seeing he, by his infeftment, was not expressly obliged to the same. Replied, That ought to be repelled, in respect of the pursuer's infeftment in the bailiary, *cum servitiis*; likeas, he offers to prove, that, since the date of his infeftment, for the space of fifty or sixty years, he and his predecessors have been in use of getting such services libelled, from the tenants of the lands libelled. The Lords .....

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## CROWNER HENDERSON'S CHILDREN Competing.

THE Lords would not sustain Crowner Henderson's testament, made after the form used in the Low Countries, wherein he made all his children, sons and daughters, heirs-portioners; as being made contrary to our laws, making the eldest son to succeed to all lands, heritable bonds, and annuals.

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1469. May 31. NICOL FORMAN of HUTTON *against* GEORGE KER of SAMUELSTON.

IN those days all actions of spoliation, intrusion, and others of that nature, were precognosed by an inquest of twelve men, best knowing the land, whose declaration being presented to the judges thereafter, they used to determine, as they did in the action betwixt Nicol Forman of Hutton *against* George Ker of Samuelston, anent the occupation of certain lands which the said Nicol alleged to belong to him in property. The parties, of their own consent, named twelve gentlemen there present, to inform and give counsel to the Lords in the said matter; who being sworn, &c. and removed, returning, gave their deliverance this way:—"We decree and deliver, after our knowledge and understanding, that in no time bygone we heard ever that the Laird of Samuelston had possession of the said lands into mannor, pasture, &c. or possessed before the last year; and