

1611. *November 26.*

EARL of LOTHIAN *against* CAPTAIN CRAWFURD.

In an action betwixt the Earl of Lothian and the Captain of Crawford, the Lords received a witness who was second and third of kin to the Captain.

No. 31.

*Kerse MS. f. 254.*

1611. *May.* The TREASURER *against* The LAIRD of LUNDIE.

In an action pursued by the treasurer against the Laird of Lundie, wherein litiscontestation was made in February 1606, and the party compearing, the libel referred to his oath. The Lords, after his reference and compearance, suffered the Advocate to resile, and choose another manner of probation by witnesses.

No. 32.

*Kerse MS. f. 259.*

1614. *June.* EARL MARSHALL *against* BURNET.

In an action betwixt the Earl of Marshall and Burnet, the Lords found an evident relevant against the Earl, which they ordained to be proved by certain witnesses, upon whose names the defender condescended. At the terms of probation he produces diligence against three of the witnesses allenarly. The Lords found, that he should have three terms, and that he should summon the rest in any of the three terms.

No. 33.

*Kerse MS. f. 260.*

1614. *June 1.* RAE *against* KELLIE.

In an action betwixt Adam Rae and Kellie, the Lords would not grant 60 days against witnesses out of the country *nisi semel*.

No. 34.

The contrary found betwixt Mr. James Durie and Colonel Balfour.

*Kerse MS. f. 254.*

1615. *June.* LAIRD of CAPRINGTON *against* HAMILTON.

In an action betwixt the Laird of Caprington and John Hamilton, a witness being repelled by objection of John Hamilton, and the Laird of Caprington de-

No. 35.

No. 35. siring to have another in his place, whose name he designed; the said John Hamilton offered rather to admit the witness repelled. The Lords would not give him place to resile, but gave the choice of the witness to Caprington.

*Kerse MS. f. 259.*



No. 36. 1615. June 6. EARL OF KINGHORN *against* ROSS.

In an action betwixt the Earl of Kinghorn and Mr. John Ross concerning the parsonage of ———, the Lords would not grant diligence against witnesses out of the country, because it was known that they were absent *animo remanendi*; and therefore they forced the party who had the probation to lead, to take a commission to examine them before the Judges of Rome and Lyons.

*Kerse MS. f. 254.*



No. 37. 1615. July 27. COUNTESS OF BUCHAN *against* EARL OF MURRAY.

In an action pursued by Dame Mary Douglas, Countess of Buchan, against the Earl of Murray, *de testibus examinandis ad futuram rei memoriam*, the Lords found, that the witnesses might be examined upon the article of minority contained in the summons, without production of the libel of restitution to which the same was relative.

*Kerse MS. f. 259.*



No. 38. 1616. November 13. MUIRHEAD *against* CLELAND.

In an action betwixt Arthur Muirhead and James Cleland, the Lords repelled a witness, because there was blood betwixt him and one Muirhead, cousin-german to the said Arthur; albeit it was not alleged, that the said Arthur Muirhead was art and part of the blood.

*Kerse MS. f. 259.*



No. 39. 1622. November 22. GRANT *against* BALLINDALLOCH.

In the mutual contraventions betwixt Grant of Carron and Grant of Ballindalloch, a witness called Grant being produced, who granted that he was within degrees descendant to the producer, was notwithstanding thereof admitted, because