

1622. *November 20.* The BAIRNS of CAPTAIN WISHART *against* The LAIRD of DRUM.

A CREDITOR being deceased, the debtor cannot lawfully consign the money before he be charged by a transferring, or decret of registration.

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1622. *November 21.*

A CAUTIONER being made assignee by the debtor to an arrestment, and diligence raised thereupon, will be preferred to other creditors, according to his cedent's diligence, and the arrestment will not be ruled according to the date of the assignation.

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1622. *December 5.*

A PERSONAL bond for delivery of evidents found not transmissible.

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1623. *February 8.* JOHN HUNTER *against* ALEXANDER HUNTER.

IF a creditor comprise his debtor's lands, he cannot have personal action against him likewise for the same debt for which he has comprised, unless he will allege that the comprising is unprofitable to him, and that he is content to renounce it; for otherwise the comprising must be ever ascribed in payment of the debt, like an assignation; for a comprising is a judicial assignation.

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1623. *February 22.* The LAIRD of BALNAMOON *against* JOHN LEECH.

A BOND being made of a certain sum, to be paid to a man himself at such a term, and, failyieing of him by decease, to N. his son; it was found that the father having survived the said term, the sum pertained not to the son, at his decease, but to the father's executors, and came under testament.

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1623. *July 11.* AGNES LIGHTON and ARCHIBALD STEWART *against* The RELICT of ANDREW LIGHTON.

IN an action of exhibition pursued by Agnes Lighton, executrix confirmed