

leged, No process upon the general declarator before the horning, whereupon it proceeded, were produced; because, howbeit the general declarator would suffice if he were pursuing the rebel, yet, having to do with the tenants, who were never convened in the same, the horning behoved to be produced; for they might, after inspection, object nullity against the same. It was found, no necessity to produce the horning.

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1627. *February 12.* The EARL of ROXBURGH *against* KER of CAVERS.

THERE WAS a question agitated among the Lords, ament the acknowledgment due to the superior of adjudged lands; for Ker of Cavers, having some lands adjudged to him by decreet of the Lords, charged the Earl of Roxburgh, superior of them, to infest him thereintill. He suspended, alleging, that he was not obliged to infest him while he got one year's duty of the lands, as in comprisings. Many were of opinion, that the Act of Parliament, ordaining one year's duty to be due to the superior in comprisings, should not be extended to adjudications, which would prove very prejudicial to creditors; and that they, coming in the place of the heir who refused to enter, could be restricted to pay no more than he would have done for entering of himself: others thought, that there was *identitas rationis* in both, and that there was no law to urge a superior to receive a stranger without a year's duty. But the question was not decided, because the charger offered to come in my Lord's own will.

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1627. *February 16.* LORD SEMPLE *against* GAVIN BLAIR.

BETWIXT my Lord Semple and Gavin Blair, Found that the defender was not astricted to payment of one stone of wax and one pound of pepper, contained in his charter, *nomine blancæ firmæ*, unless it had been required every year at the time prefixed in the infestment.

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1627. *March.* Robert Lumsden *against* The Tenants of Tilligreig.

MRS Robert Lumsden having obtained a decreet of spoliation of teinds before the commissary of Aberdeen, against the tenants of Tilligreig, because, the quantities being referred to their oaths, they compeared not, and so were holden as confest;—they having suspended, and offering their oaths of new, the Lords would have Mr Robert to give his *juramentum credulitatis* upon the quantity of the teinds spulyied, what he believed to his knowledge and information they came to.

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