

1627. *June 26.* The LAIRD of INCHEMERTINE *against* The LAIRD of BOGMILNE.

THE Laird of Inchemertine, by libel, craved that a commission might be granted to a messenger to intromit with, shear, lead, and win the corns of Bogmilne, who was fled, and bankrupt; and to deliver the same to him, to be made forthcoming to all parties having interest. The Lords would not grant commission to a messenger, but to himself.

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1627. *July 6.* JANET ROLLO *against* _____.

JANET Rollo, assignee constituted by her sister, who was executor confirmed to her mother, pursues, upon this assignation, for a debt owing to their mother. The action is intented after the cedent's decease. The Lords will not sustain action upon the assignation made by the defunct's executor's cedent, except sentence had been received against the debtor, at the executor's instance, in her own lifetime; but, to supply all, the Lords ordained the assignee to confirm herself executrix to her mother, and the process to ly over in the meantime; and, after the confirmation, to reform the summons.

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1627. *July 7.* KERR, Tailor, *against* LADY COLLINGTON.

A CREDITOR of the defunct's husband pursues his relict, as executrix for the debt, and refers the same to the relict's oath; who being holden *pro confessa*, yet the Lords, advising the cause, find this probation of the debt will not infer exoneration to the executrix, if any other creditor pursue; but the Lords ordained her to pay the debt, and the pursuer to find caution to make the sum forthcoming to other creditors, as law will.

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1627. *July 9.* MOIR and M'INVAR *against* DUNBAR.

A JUDICIAL act of an inferior judge obliges no more than the assertion of a single notary.

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1627. *July 16.* THOMAS SWINTONE, Minister at St Coltham, *against* The EXECUTORS of his PREDECESSOR.

By act of General Assembly, holden at Monross, 28th June 1595, it was ordained, if a minister deceases any time before Michaelmas, his executors shall

have all his stipend of that year wherein he deceases, albeit he decease in January; and, if he decease after Michaelmas, his executors shall have the whole stipend of that year wherein he deceases, and the half of the next year. According to the which Act, the Lords are in use to decide: as was done by Mr Tho-Swintone, minister at St Coltham, and the executors of his predecessors.

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1627. July 18. The EARL of NIDSDALE *against* His VASSALS and TENANTS.

A TENANT, pursued for removing, alleged, That his master was not warned, who was infest by a forfeiture reduced. The Lords repelled the allegiance, by reason the forfeiture was unreduced.

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1627. July 18. ROBERT MENTEITH *against* The TOWN of PEARTH.

AN execution of a charge of horning, bearing a ticket to have been delivered by the messenger, containing the substance and tenour of the letters, is found null, because it bore not the delivery of an authentic copy.

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1627. July 21. HAMILTONE *against* M'CULLOKE.

SICKLIKE, [*Vide* Hamilton *against* Brown, 1628, January 11,] except seasine followed within a term after the comprising, or at least diligence, led on by the compriser, within that space, to obtain seasine, the denunciation or comprising hinders not another, to take disposition.

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1627. July 24. DRYSDALE *against* DRYSDALE.

AN heritable bond comes not under testament, but pertains to the heir.

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1627. July 26. ARNOT *against* HAY.

A GENERAL declarator of a man's liferent gives no action of removing in prejudice of another who had obtained himself infest in the lands, albeit the tenants made payment, voluntarily, of the mails and duties to the donatar.

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