

of letters conform. The Lords repelled the exception, and sustained the pursuer's interest.

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1628. *February 16.* ROBERTSON *against* The DEBTORS of WILLIAM CAMPBEL her Husband.

ONE Robertson, relict to umquhile William Campbel, merchant in Edinburgh, pursued a number of her husband's debtors upon an assignation made to her of the same debts by her husband in his lifetime. Which assignation (though quarrelled by the defenders, as given *stante matrimonio,*) was sustained by the Lords.

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1628. *February 16.* THOMAS LINDSAY *against* JAMES CARMICHAEL'S RELICT and BAIRNS.

THOMAS Lindsay, against the relict and bairns of James Carmichael of Potishaw, pursued a general declarator of the said James his escheat. Alleged, No process upon the pursuer's summons, because all parties having interest were not summoned, *viz.* Robert Henry, executor dative confirmed to Alexander Levingston of West-quarter, who was also donator to Potishaw's escheat, and whereupon he had action of declarator depending; which action the pursuer could not but know, because he compeared therein, and was admitted for his interest. Replied, There was no necessity for his summoning any but the relict and bairns of the rebel, personally or at their dwelling-house, and all others having interest, at the head burgh of the shire, which he had done; and as for his executor, if he pleased to compear for his interest, he was content he should be admitted. The Lords repelled the allegiance.

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1628. *February 20.* The LAIRD of BALVENY *against* INNES, &c.

THE Laird of Balveny, as tacksman of some lands of Spey-side, convened the tenants for payment of the mails and duties for five years' space that was to run of his tack. Alleged for one Innes, that the mails could not be paid to the pursuer, because he was infest in the said lands by the Earl of Murray, and by virtue thereof in possession since the year 1622: likeas the Earl of Murray his author was in possession of the same lands five years before his infestment immediately, by uptaking of the mails and duties, inputting and outputting of tenants, &c. Replied, That the Earl of Murray having set the same lands in tack to the pursuer for nineteen years, by virtue whereof he was in posses-