

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 CAMPBELL 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-

sion by the space of fourteen years, he could not invert his possession by any posterior deed done by him in favours of any other person. The Lords sustained the exception. *Page 200.*

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1628. *February 26.* JOHN GORDON *against* ROBERT MOFFAT.

JOHN Maxwell being addebted to John Gordon in 100 pounds, John Gordon raised letters of arrestment, and arrested, in Archibald Anderson's hand, forty bolls of oats belonging to John Maxwell, and called to make the same forthcoming in satisfaction of his debt. Compeared Robert Moffat, donator to John Maxwell's escheat, and alleged that the said victual could not be made forthcoming to the pursuer; because John Maxwell, to whom the same pertained, being rebel, the gift of his escheat belonged to him, whereupon he obtained general declarator long before the pursuer's arrestment. Replied, Not relevant, except he had obtained special declarator. Duplied, His right being declared by decret of the Lords, the rebel's goods cannot be taken from him by any subsequent arrestment after his declarator. The Lords preferred the donator. *Page 101.*

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1628. *February 29.* ROBERT LINDSAY of CAVIL *against* The TENANTS of ROSSYTH.

WILLIAM Philip, being infest in an annual-rent of twelve bolls of victual out of the mains of Rosseyth, he dieth *in anno* 1597: William, his son, as heir to his father, is infest in the same annual-rent *in anno* 1611, who made Robert Lindsay of Cavil assignee to the said annnal-rent, of all years between the father's decease and the son's infestment: Upon which assignation the assignee intented action for poinding of the ground for the said years. Alleged for the tenants, That the ground could not be poinded for these years by virtue of the sasine of William the son, because, by the same, he had not right to the said annual-rent of any years preceding the date of his infestment, during which it was in non-entry in the superior's hands. Answered, The tenants had no interest to propone that; and, albeit the cedent's sasine be not till 1611, yet the whole annual-rent of all years since his father's decease will accresce to him after the date of his infestment, as heir to his father; and, consequently, as the cedent had right as heir, so his assignee had competent action for poinding of the ground. The Lords found the exception relevant.

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1628. *March 5.* The HAMMERMEN of GLASGOW *against* CORNELIUS CRAWFORD of JORDANHILL.

THE deacon of the Hammermen in Glasgow pursued Cornelius Crawford of  
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