

Lenox, superior, intruded himself in the possession of the said house. The Lords repelled the exception, in respect of the reply.

[*Vide Contrarium, Dalmahoy against Roxburgh.*]

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1628. December 10. LENOX *against* MACILMUR.

ALL redeemable annualrents may be redeemed for payment of ten for the hundred. James VI, Par. 12, cap. 135.

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1628. December 10. The EARL of GALLOWAY *against* GORDON.

IF it be alleged, that the party summoned was not in the country, *tempore citationis*, the Lords will not sustain this dilator *in prima instantia*, except the proponer thereof offer to prove the same *positivè*.

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1628. December 12. CRAWFORD *against* MATHISONE.

EXECUTORS may be pursued for fulfilling a contract of marriage, whereby the party contractor is obliged to ware and bestow a certain sum of money upon bond, in conjunct fee, to the two spouses, and the heirs to be gotten betwixt them. It was alleged by the executors, That the bond being heritable, could not be pursued against the executors, till the heir was first discust. The Lords found no necessity for discussing the heir first, seeing a creditor may pursue either an heir or an executor, at his option.

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1628. December 13. _____ *against* _____.

ARRESTMENT of duties, in the tenants' hands, for the terms to come after the arrestment, will not exclude him who comprises the lands, and is seased before the said term, although the comprising and seasing be subsequent to the arrestment.

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