

1629. *February 11.* FRASER of TECHMURE, Petitioner.

FRASER of Techmure's mother comprised certain lands pertaining to the Laird of Philorth, and, before the comprising is allowed by the Lords, she deceases. Techmure serves himself heir to his mother, and gives in a bill, desiring the Lords to allow the comprising, that he might get letters to charge the superior to receive him as heir to his mother. The Lords grant the desire of the bill, although some thought it was requisite he should have sought first a decret of transferring of the comprising, in his person, as heir, and, to that effect, to have summoned the Laird of Philorth.

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1629. *February 11.* LAIRD of LAMINGTOUN *against* CAPTAIN CRAWFORD.

AFTER a cause is reasoned in the Inner-house, if the party pursuer will not insist, a protestation should be granted to the defender, and the extract of the interlocutor.

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1629. *February 12.* FRASER *against* DOCTOR.

A DECRET of spuilie of a horse, before the sheriff of Forres, not respected, because the probation is not found clear; but the party reponed to his defences.

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1629. *February 12.* LORD YESTER'S TENANT *against* LORD YESTER.

THE Lord Yester having obtained decret against one of his tenants, for payment of a greater duty nor the tenant was in use to pay for that roum before, upon a new condition made by the said tenant, to the said Lord, which being referred to the tenant's oath, he was holden *pro confesso*. This decret is sought to be reduced at the said tenant's instance, and he reponed to give his oath; because, it was alleged, That the Lord Yester's procurators had stolen through this decret against the tenant, having promised not to call the

said action till they made the tenant's procurators foreseen thereof; whereupon the advocate, being examined *ex officio*, the Lord Yester's procurator's man deponed, That once he made a promise; but the decreet was obtained more nor two years thereafter. The Lords would not reponne the defender to his oath, but ordained the Lord Yester to give his oath upon the condition alleged by him.

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1629. *February 13.*

THE father's deed does not infer contravention against the son.

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1629. *February 14.* ROBERT FARQUHAR *against* WALLACE.

A PARTY being pursued for exhibition of a bond made to him that pursues for the same, who alleges, in his summons, that he delivered the said bond to the defender;—it was answered, That this delivery cannot be proven but *scripto vel juramento partis*. The pursuer replies, That the delivery of a writ may as well be proven by witnesses, as the having of the same. The Lords sustained the probation *prout de jure*.

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1629. *February 14.* GRANT *against* BALVENIE.

THE receiving of feu-duties, or accepting of a resignation from a person that was not infest himself, cannot compel the superior to receive or enter one of his vassals, that had comprised the land from him that had been in use to pay the feu-duty of the land, and who had resigned his right in the superior's hands, but had never been infest.

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1629. *February 15.* ——— *against* ———.

THE young Lady Hallyburtoune having appointed 500 merks termly for her ali-