

1629. *March 5.* ————— *against* The LAIRD of RENTONE.

THE procurator-fiscal being decerned executor, surrogates certain of the defunct's creditors, who thereafter confirm the defunct's testament. Another of the defunct's creditors pursues one, to whom the creditor surrogated by the procurator-fiscal, had sold some of the defunct's goods and gear, before the confirmation, but after the surrogation, as universal intromitter with the defunct's goods and gear. It is excepted by the defender, That he bought the gear from the parties who were decerned executors, shortly after confirmed. It was replied, That the defenders had no right to dispoñe before confirmation. The Lords repelled the reply, and admitted the exception.—*5th March 1629,* ——— *against The Laird of Rentone*; who bought some sheep pertaining to the umquhile William Douglass of Blachirstoune, from the dative.

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1629. *March 5.* LADY BORTHWICK *against* SIR WALTER SCOTT of GOLDIELAND.

A CONJUNCT infestment granted to a man and his wife, *stante matrimonio*, by his wife's brother, although the husband paid a sum of money therefore, but not equivalent to the avail of the land, is not found *donatio inter virum et uxorem*; but her right for her lifetime is thought to proceed from the love of the brother, and, in that respect, she may bruik her liferent of the said land after her husband's decease, without any burden imposed by her husband without her consent.

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1629. *March 6.* LADY RENTONE *against* Her SON.

ALTHOUGH a man, by contract of marriage, be obliged to infest his future spouse in all his lands, roums, annualrents, and possessions, that he shall happen to conquesche during the time of the marriage; yet, if he acquires the tack of a teind to himself and his heirs, and the wife pursue the heir to provide her there-to during her lifetime;—the Lords found the heir was not subject thereto by the contract of marriage, seeing she could not be infest therein.

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1629. *March 7.* The LADY OLDBARR [OF ARBLAIR] *against* Her HUSBAND'S HEIR.

THE Lady Oldbarr having paid an heritable bond, *per ignorantiam*, made, by