

them, he desired that the said Master Rodger might exhibit the chest before the Lords; or else suffer him to take out such writs as he had to do with, upon sufficient caution that they should be restored again. Master Rodger alleged, That he could not deliver any of the writs until Ludquhairn, who committed them to his custody, were cited, seeing Haddo as yet was minor, and had curators. The Lords granted the bill, notwithstanding of the allegiance.

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1629. June 20. ——— against ———.

INHIBITION may be raised and executed against an apparent heir by a deliverance of the Lords.

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1629. June 24. DUNCAN MENZIES against SIR MUNGO MURRAY.

In a declarator of nonentry, it is not necessary to summon all that have their lands holden of the king, except their rights proceed from the persons by whose decease the nonentry is craved to be declared.

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1629. June 25. JOHN AUCHTERLONY against WILLIAM GUTHRY.

JOHN Auchterlony obtained a decret of registration of a bond made by umquhile Alexander Guthry for 1000 merks, against William Guthry of Meannes, heir of tailyie to the said umquhile Alexander. In the which action of registration, Anna Guthry, heir of line to the said umquhile Alexander, was called and assoil-yied, in respect she renounced to be heir; and the registration sustained against her, only *cognitionis causa*, to have execution *contra hereditatem jacentem*. Upon the said decret of registration, the said William Guthry, heir of tailyie, is charged by the creditor. He suspends, upon this reason, That the heir of line should be first discussed; and albeit, both the heir of line and of tailyie may be pursued in a libel, yet the heir of line ought to be first discussed; and albeit she renounces, yet he might pursue for adjudication, from her, of such rights as fell to her as heir of line; and till the charger follow out this course, he could not charge the heir of tailyie. To the which it was answered, The charger having convened the heir of line, and she having renounced, it was in his option, either to pursue the heir of tailyie, or seek adjudication. The Lords found the letters orderly proceeded against the heir of tailyie; but ordained the charger to make assignation of the right to the heir of tailyie, that he might seek adjudication, for his relief,

of the rights pertaining to the defunct, whereunto the heir of line might succeed.

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1629. *June 25.* SIR MUNGO MURRAY, Donatar to the Nonentries of Athole, *against* DRUMKILBO, INCHMARTIN, and OTHERS.

As many persons as are infest in lands, as many gifts of nonentry may be given by the superior, through the decease of those that were infest, and a general declarator may follow upon all the gifts; but the rights of the infestment may be reserved to the special declarator, when the donatar pursues for the mails and duties, or for removing.

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1629. *June 26.* MACKGIE *against* BALMAGIE.

A CHARGE of horning, executed by a messenger at a man's dwelling-house, where he left a copy; and, upon that same day, the messenger having met with the said man personally; he made intimation to him of the said charge given to him at his dwelling-house. The Lords would not sustain the charge; because the indorsation bore not that he gave him an authentic copy the time of the intimation made personally.

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1629. *July 1.* LADY DUMFERMLING *against* Her Son.

THE receipt of feu-duties from vassals that have not a valid right, will not prejudice the superior to reduce the said feus.

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1629. *July 1.* The LADY DUMFERMLING *against* The EARL, her Son.

IN the seeking of a contract of marriage to be fulfilled, where the husband is obliged to infest his wife in all the lands and heritages that he shall happen to conquesche during the marriage; it is to be understood of lawful and valid rights, whereby they may bruike the lands; but if a lord of erection buy, from his pretended vassal, a feu unconfirmed, this conquest is found, by the Lords, no conquest of a valid right, but, as it were, the acquiring of the vassal's possession and kindness.

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