

1629. July 20. ————— against DOUGLAS.

A. B. pursues Douglas as universal intromitrix with her father's goods and gear. To the which it was answered, That she cannot be called *eo nomine*, because A. G. had confirmed himself executor. To which it was replied, That the said confirmation was only for his own particular debt as a creditor; and this kind of executory could furnish no action to constitute him debtor to other creditors, and could not hinder other creditors to pursue the wrongous intromitter. The Lords sustained no action against the defender as universal intromitrix; and gave it in the option of the pursuer, either to take a dative *ad omissa*, or to pursue the defender for all the particulars that she had intromitted with.

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1629. July 20. GEORGE LYLLE [OR HILL] against The LAIRD OF WHITTINGHAM.

A BOND, made by William Douglas of Stanypathe, of 600 merks, to umquhile George Lylle, was consigned in the hands of the Laird of Whittingham. The said George Lylle pursues Whittingham to exhibit the bond, and refers the having thereof to his oath of verity. He depones, That indeed a bond was consigned in his hands, which he had lost he knows not how; but that he could not tell what the sum therein contained was. The Lords gave a liberty to the pursuer to produce any witnesses to prove the sum contained in the bond; and, if the pursuer had been the person to whom the bond was made, the Lords would have referred the quantity of the sum to his oath.

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1629. July 22. ————— against —————.

A TRANSFERRING of a bond being pursued at the instance of a relict, who was made assignee by her spouse, and also one of his executors;—it was alleged, The cedent being dead, the assignee could not charge; but it behoved her to pursue, *via actionis*, at the executor's instance. The Lords sustained the action of transferring, she finding caution to make the sum furthcoming to all parties having interest.

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1629. July 23. JOHN GAW against ELISABETH RUTHERFOORD.

JOHN Gaw pursues Elisabeth Rutherford, as universal intromitrix with