

horn on the Saturday, and had, on the Tuesday thereafter, received from him his feu-duty, and had given him a discharge thereupon. So, seeing there was no disobedience that could be alleged on the vassal's part to his superior, the Lords found the horning null, in so far as concerned Sir Leues, and noways of power to infer the falling of the vassal's liferent to the superior.

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1629. December 2. DOCTOR ROSS against CAMPBELL.

A DECRET being given against a party charged to enter heir and not compearing, [he] intents reduction of the said decret, offering to renounce to be heir. It was alleged, That he cannot now be suffered to renounce, seeing he was lawfully charged to enter heir, and suffered decret to pass against him as heir. It was replied, That he may use the same reason now, in his reduction, which he might have used *in prima instantia*, in case he had compeared, *viz.* to renounce to be heir *cum omni causa*. The Lords found he might renounce yet, but ordained him to pay £50 of expenses for drawing his party to unnecessary charges.

*Vide Restitution of Estates of Bishops*, Ja. VI, Par. 18, cap. 2, 1608.

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1629. December 10. CLERK against MR JOHN STEWART.

HERITABLE bonds fall not under escheat; and, therefore, may be assigned by a rebel, *stante rebellione*, notwithstanding of the Act anent escheats of rebels, Ja. VI, Par. 12, cap. 145, which Act is not extended to heritable rights or bonds.

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1629. December 11. RYBURN against The LAIRD of HYSLEHEADE.

RYBURN, against whom the Laird of Hysleheade had obtained a decret of improbation of all and hails his rights and evidents of a merk-land, seeks, by summons, to be reponed against the decret, and that he might yet be heard to produce all his rights, because he was dwelling in Ireland the time of his citation; and alleged that the pursuer was *in pessima fide* to pursue him for improbation, seeing the Laird of Hysleheade had himself entered the pursuer in the said merk-land, by a precept of *clare constat*, ready to be produced. It was answered by Hysleheade, That all parties having interest were not called, *viz.* the king's advocate, at whose instance the decret of improbation was given. The Lords found it necessary to summon the king's advocate.

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1629. December 16. HOME against HOME.

In a contract, where a party is obliged to give a certain sum of money in to