

In the same action, it was found that the factor's cautioner cannot be pursued for annualrent, but for the principal allenary.—*23d February 1630.*

*Page 25.*

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1630. *February 27.* SCARLET [OR TARBET] *against* PATERSON.

ONE having an annualrent furth of a tenement, and thereafter having comprised the property, his intromission with the mails and duties must be ascribed to his right of property; and, if he has intromitted with as much as might pay his principal sum and annualrent thereof, for the which he comprised the property, his right of property is thereby found extinct, and his intromission with the mails cannot be ascribed to the right he has of his annualrent, but that right of the annualrent sleeps till the right of property cease; because one and the self-same person cannot have interest to uplift the mails both by his right of property and of an annualrent.

*Page 11.*

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1630. *March 10.* HERIOT *against* HERIOT.

THE annualrent of an heritable bond pertains to the heir, if the heritor die before the term of payment, and not to the defunct's executors.

*Page 11.*

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1630. *March 12.* LAIRD of CLUNIE, Bailie of the Bishopric of Edinburgh, *against* The VASSALS thereof.

FEUARS are not obliged by law to keep the superior's head courts, except they be astricted thereto by their charter.

*Page 82.*

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1630. *March 12.* SOMERVELL *against* ———.

THE superior of an annualrent holden blench, being charged to enter the heir, suspends; alleging, that seeing the charger's retour bears the annualrent *valet seipsum*, and the vassal ought to do to his superior *quod de jure tenetur*, that, before he entered the heir, he ought to have two years' duty of the annualrent.