

which, by the law and practise, strikes not on moveable, but on heritable rights. Which exception the Lords found relevant.

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1628, *November 11*; and 1630, *December 20*. MENZIES *against* DOUGLAS.

THE tenants of Nemphlare astricted themselves, by their bond, to bring their corn to Manse Mill, which is the mill of Lanarick. They being pursued upon their bond, the Laird of Cuninghamehead compeared for his interest, being their master, alleging his tenants could not astrict themselves to another mill without his consent. The Lords repelled his allegiance, seeing the tenants could not prejudice their master.

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1631. *January 9*. JOHN SPENCE *against* ALEXANDER CREIGHTOUNE.

UMQUHILE James Simpson, cordiner in Edinburgh, was addebted, by his bond, to John Spence, in the sum of 200 merks. He pursues Alexander Creightoune, as intromitter with the defunct's gear. The defender alleges, He cannot be convened as intromitter, because the defunct died rebel, and he is donatar to his escheat, which purges his intromission. To the which it was replied, That his intromission being prior to this gift, the subsequent gift cannot purge his vicious intromission. *2do*. It is offered to be proven, that the defender accepted a disposition from the defunct, before his decease, of his hail goods and gear, for satisfaction of his debts; and of this debt in particular: So he could not take the gift of the defunct's escheat, to defraud creditors whom he was obliged, by the said disposition accepted by him, to pay. The Lords repelled the exception, in respect of the last reply; at least, that he might make count and reckoning, to the creditors, of his intromissions.

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1631. *January 18*. PATRICK HOME of COLDINGAMELAW *against* The LAIRD of RENTON, Sheriff in Dunse.

PATRICK Home of Coldinghamelaw, having letters of caption against the Laird of Wedderburn, charges the Laird of Rentoun, Sheriff in Dunse for the time, to apprehend the Laird of Wedderburn, when the Sheriff was sitting in court upon certain witches; and intents action against the Sheriff for not apprehending of the rebel, seeing that the execution of the messenger bore, that the rebel was present at the court in company with the Sheriff. It was alleged by the Sheriff, That the execution of the messenger could not be a ground whereby he might