

1633. *January 22.* JANET GORDON *against* GILBERT MACKQUHAIRN.

*A Proposition not unfit to be motioned in Parliament.*

To provide for freeing of buyers of lands from the hazard of infeftments of annual-rents given out of the same lands, by the fewers thereof, to be holden base of themselves, which may be easily concealed from the buyers, and cannot readily come to their knowledge, not being public; but, after that the buyer hath been in possession, perhaps twenty or thirty years, the persons having but infeftments of annual-rents out of these lands, may seek to have the lands poided for the bygones; and, lest they should be challenged for want of possession, they may allege they have been in possession of uplifting of the annual-rents from the sellers of the land, but not from their tenants of the ground; by which means the singular successor might have come to the knowledge thereof. This was represented in the poiding of the ground, for an annual-rent of twenty pounds, for twenty years bygone, pursued by Janet Gordon against Gilbert Mackquhairn.

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1633. *February 1.* The LAIRD of PANMURE *against* The YOUNG LAIRD of GEIGHT and his WIFE.

IN a declarator of the old Laird of Geight's escheat, pursued by Panmure;— Alleged for young Geight and his Wife, That the declarator could not be extended to certain lands wherein they were infeft by the old Laird, by virtue of their contract of marriage. Replied, That ought to be repelled; because, before the contract foresaid, the old man was rebel at the horn, after which time he could neither contract, nor do any deed in prejudice of the superior. Duplied, This contract being of an onerous cause, *scilicet, pro dote*, which is most favourable, cannot be prejudged by his lying at the horn; otherwise many inconveniences should follow upon it, to the hurt of poor women. The Lords repelled the exception, in respect of the reply.

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1633. *February 9.* DENNISTON *against* LINDSAY.

THE same found as in Grant against Grant and Others, 28th January 1632, Dict. p. 8037.

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1633. *February 20.* The COLLEGE of GLASGOW *against* PATRICK STUART.

THE College of Glasgow, having right to the teinds of the parish of Govan, and having recovered decret conform *in anno 1585*, raised letters, and charged

Mr Patrick Stuart for the rental bolls of the lands of Bashagrie, for the years 1629, 1630, and 1631. He suspended upon this reason, That he could not be subject in payment of the rental bolls ; because, 30 or 40 years bygone, he was never in use of payment thereof, but only of a certain silver duty, sometimes more, sometimes less, according as the teinds were thought worth by estimation of men that valued them. Answered, He offered to prove that the College obtained sundry and divers decreets against the heritors and tenants of the same room, for payment of the same rental bolls charged for ; and so the same teind bolls, being a constant rent and duty pertaining to the College once, and established in their persons, by divers decreets, as a part of the patrimony thereof, whatever duty hath been received since, by the masters of the teinds thereof, could not prejudice the body of the College of their patrimony for years to come, so established by sentences ; but they may still, at their pleasure, have recourse to the bolls once paid. Answered, The chargers, having once passed from the payment of the bolls, cannot, after so long a disuetude, have recourse to them, especially where the suspender is content to give that which is naturally due, *viz.* the teind-sheaves. The Lords repelled the allegiance, in respect of the reply, without prejudice to the suspender, in time coming, to make offer of the teind-sheaves to the chargers.

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1633. *February 26.* MARGARET TURNBULL *against* JOHN PRINGLE and OTHERS, her Husband's Creditors.

IN an action betwixt Margaret Turnbull, executrix to her husband, and her Husband's Creditors ; the creditors striving about preference among themselves, John Pringle alleged, That he had arrested, in the defunct's debtor's hands, long before any of the rest, and had summons depending to make it forthcoming ; in which respect he ought to be preferred, in that which he had arrested, before all others. Some of them had obtained decreets before the commissaries against the executrix ; others had only summons of registration depending against her. The Lords would not give preference to any of them before another, but ordained them to be all answered alike, conform to the proportion of their sums ; and that in respect that all their diligence was but done within six or seven weeks' space before.

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1633. *February 27.* The LAIRD of BALBIRNIE *against* GRAHAM and SEMPLE.

THE Laird of Balbirnie, as assignee to an English bond of £200 sterling, granted by umquhile Sir John Graham of Urquhill and Sir James Semple of Beltree, to Mr Robert Johnston, pursued the sons and heirs of the two debtors for payment thereof. Alleged, Paid by their father. The question was about the proving thereof. The defenders allege, That this, being an English bond granted by them, who had their residence for the time in England, and which