

the Laird of Teilling and the Earl of Nidsdale, *anno* 1631. The Lords decerned conform to the said practique.—15th *February* 1634.

It was farther alleged, That the Lord Yester behoved to have the full avail of the lands, for his entry ; because the person's liferent, who was vassal to the Goodman of Monktoone, was fallen in his hands, and he had componed with him for the same. The Lords found, That this casualty of Munktoone's vassal could not be profitable to the Lord Yester, superior to Munktoone.

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1634. *March* 14. CHRISTIAN HOOME *against* ANDREW GIBB.

ANDREW Gibb married Christian Hoome, a widow ; and, by contract of marriage, her whole moveables and sums being contracted to him after the marriage, she diverted from him, by persuasion of her first husband's bairns, and menaced to put hands in herself, except the husband discharged the contract of marriage, and reponed her to dispone upon all the gear that she brought with her at her pleasure. Whereupon, by advice of both their friends, a new contract was drawn up, whereby the first contract was discharged, and each party got power to dispone upon their own gear. Notwithstanding, after the wife's decease, the husband takes a dative *ad omissa*, in the person of another, and pursues Andrew Gibb for such part of the goods as would have fallen to the wife. He excepts upon the later contract made by advice of friends. It was replied, That this contract was unlawful and null, being *inter virum et uxorem stante matrimonio*, and could not subsist but so long as the wife lived. It was answered, That this was *donatio remuneratoria*, and, not being revoked by the wife during her lifetime, was ratified by her death, as also by her, in her own time, before a judge. The Lords found the exception relevant, founded upon the *donatio remuneratoria* contained in the last contract.

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1634. *March* 18. ORE *against* WATSON.

IF three sisters be apparent heirs, and the father dispone his heritage to one of the three, and appoint her to give certain sums of money to the other two, a creditor pursues her to whom the lands were dispone as successor to her father *post contractum debitum*. She alleges, That her other two sisters ought to be pursued as well as she, seeing they got benefit by their father. To the which it was replied, That none can be pursued as successor but those who succeed to lands or heritable right ; and not they that obtain provisions of monies. Which