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TERCE.

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No. 1. 1742, July 30. RELICT OF LAWSON OF CAIRNMUIR, *Supplicant*.

WE gave a commission to a Gentleman as Sheriff in that part for three Sheriffdoms to serve this Lady to a terce in this Parliament House, to save charges, though we could find no precedent for it; for which reason the President and I and others were for delay ing, the Court being exceeding (thin.)

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TESTAMENT.

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No. 2. 1735, Jan. 8. ARNOT *against* INGLIS of Murdieston.

THE Lords found the estate of Murdieston not affectable. Some of the Lords thought it was not Murdieston's intention that it should be affectable. Others (*inter quos ego*) thought his intention plain enough, but thought a testament was not *habilis modus*, and that it was a competent defence to this defender though a gratuitous disponee, and instanced the case of Hutton, where the Lords found that a bill on death-bed was not *habilis modus* to leave a legacy, and we were all of that opinion.

No. 3. 1735, Dec. 5. LITHGOW *against* PETRIE.

THE Lords adhered, and reduced the testament *in toto*, of which I much doubt; and several of us thought that *quoad* the defender's legacy and others wherein the defunct's will was sufficiently proved, it ought to be sustained; and they all agreed that reading the testament was not necessary *ratione solennitatis*; and the President thought there was not sufficient evidence of the will even as to these legacies, and thought that if a scroll were read, though some small legacies were omitted, it would not annul the testament.

No. 5. 1740, Dec. 2. INNES *against* TARBET.

THE Lords sustained the reasons of reduction, viz. that it was obtained by undue means by Mr Logan's moving the defunct to alter her first settlement, and especially that the defunct desired that Mr Innes might be acquainted before she would sign, and Tarbet told a lie that he had been acquainted, and no body can know what effect the acquainting Mr Innes might have had, and Charles Tarbet could not be profited by his own lie,—*venit*. President and several others.