

at the least, that the said minute may make faith. The Lords sustained the last part.

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The LAIRD of DRUMQUHASILL *against* KNIELLAND.

WARNING made by Drumquhasill to Knielland, to remove from certain lands ;— it was alleged, That the warning was not made and executed at the kirk of ———, within the which the lands ly that are contained in the warning. To the which it was answered, That the warning was made at the kirk of Pasley, where the persons dwelling upon the said lands resorted to the hearing of the Word, ministration of the sacraments, and burials. To the which it was duplied, that the resort of people to a certain kirk to hear divine service, makes not them to be of that parish ; but the payment of their teinds, great and small, which the said lands paid to the kirk of ———. The Lords found the warning not executed at the right parish kirk.

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MARGARET CRAIG *against* OLIPHER SINCLAIR.

OLIPHER Sinclair being decerned, by the commissaries of Edinburgh, to marry Margaret Craig, he gives her a bond to complete the marriage with her betwixt and a certain day, and, failing thereof, to pay her the sum of 800 merks ; she, after the expiring, finding him to go out of the country, arrests some goods and gear of his, and craves that the same may be made forthcoming. It is alleged, No failie can be decerned for not completing of the marriage, *quia matrimonia debent esse libera* ; to the which he had been decerned by the commissaries, upon his promise and copulation proven to complete the marriage ; so he cannot resile *rebus integris*. The Lords repelled the exception.

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BOYD, in Perth, *against* BOGES, his Tutors and Curators.

¶ If the mother decease before the father, and her spouse confirms the testament, and intromits with her gear, and lives a long time after his wife, her bairns cannot pursue tutors or curators for the gear contained in the mother's testament ; seeing it is presumed that the same is contained in the father's testament.

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