

No. 35. siring to have another in his place, whose name he designed; the said John Hamilton offered rather to admit the witness repelled. The Lords would not give him place to resile, but gave the choice of the witness to Caprington.

*Kerse MS. f. 259.*

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No. 36. 1615. June 6. EARL OF KINGHORN *against* ROSS.

In an action betwixt the Earl of Kinghorn and Mr. John Ross concerning the parsonage of ———, the Lords would not grant diligence against witnesses out of the country, because it was known that they were absent *animo remanendi*; and therefore they forced the party who had the probation to lead, to take a commission to examine them before the Judges of Rome and Lyons.

*Kerse MS. f. 254.*

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No. 37. 1615. July 27. COUNTESS OF BUCHAN *against* EARL OF MURRAY.

In an action pursued by Dame Mary Douglas, Countess of Buchan, against the Earl of Murray, de testibus examinandis ad futuram rei memoriam, the Lords found, that the witnesses might be examined upon the article of minority contained in the summons, without production of the libel of restitution to which the same was relative.

*Kerse MS. f. 259.*

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No. 38. 1616. November 13. MUIRHEAD *against* CLELAND.

In an action betwixt Arthur Muirhead and James Cleland, the Lords repelled a witness, because there was blood betwixt him and one Muirhead, cousin-german to the said Arthur; albeit it was not alleged, that the said Arthur Muirhead was art and part of the blood.

*Kerse MS. f. 259.*

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No. 39. 1622. November 22. GRANT *against* BALLINDALLOCH.

In the mutual contraventions betwixt Grant of Carron and Grant of Ballindalloch, a witness called Grant being produced, who granted that he was within degrees descendant to the producer, was notwithstanding thereof admitted, because