

In the same action, it was found that the factor's cautioner cannot be pursued for annualrent, but for the principal allenary.—*23d February 1630.*

*Page 25.*

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1630. *February 27.* SCARLET [OR TARBET] *against* PATERSON.

ONE having an annualrent furth of a tenement, and thereafter having comprised the property, his intromission with the mails and duties must be ascribed to his right of property; and, if he has intromitted with as much as might pay his principal sum and annualrent thereof, for the which he comprised the property, his right of property is thereby found extinct, and his intromission with the mails cannot be ascribed to the right he has of his annualrent, but that right of the annualrent sleeps till the right of property cease; because one and the self-same person cannot have interest to uplift the mails both by his right of property and of an annualrent.

*Page 11.*

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1630. *March 10.* HERIOT *against* HERIOT.

THE annualrent of an heritable bond pertains to the heir, if the heritor die before the term of payment, and not to the defunct's executors.

*Page 11.*

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1630. *March 12.* LAIRD of CLUNIE, Bailie of the Bishopric of Edinburgh, *against* The VASSALS thereof.

FEUARS are not obliged by law to keep the superior's head courts, except they be astricted thereto by their charter.

*Page 82.*

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1630. *March 12.* SOMERVELL *against* —————.

THE superior of an annualrent holden blench, being charged to enter the heir, suspends; alleging, that seeing the charger's retour bears the annualrent *valet seipsum*, and the vassal ought to do to his superior *quod de jure tenetur*, that, before he entered the heir, he ought to have two years' duty of the annualrent.

The Lords repelled the allegiance, and ordained the suspender to enter the charger, reserving action for his non-entry allenary, *prout de jure*.

Page 222.

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1630. *March 18.* CHISHOLM *against* PRINGLE.

THE Lords sustain sometimes poindings and denunciations at places accustomed within regalities, albeit the same be not at the head burgh of the regality : as at the tree of Torphichen, for the regality thereof ; and at Kilope-gate, for the regality of Slaw ; albeit the town of Kirkliston be the head burgh of the regality.

Page 188.

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1630. *March 22.* JOHN SCOUGALL *against* ALEXANDER DOUGLAS and MARGARET INGLIS.

ALEXANDER Douglas and his wife Margaret Inglis are pursued by John Scougall, donatar to the escheat of Patrick Craigie, for certain merchandise coft by them from the said Patrick, whereupon decret was obtained against Alexander, as holden *pro confesso*, and against his wife, as confessing the debt. After Alexander's decease, John Scougall his executors charge his wife for the debt ; she alleges, That her husband's executors should be preferred, and that she ought not to be convened for any debt contracted by her, *stante matrimonio*, without her husband's consent. Which allegiance the Lords found relevant.

Page 265—6.

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1630. *March 25.* MR GEORGE FLETCHER *against* The LAIRD of CULTER.

Two donatars contend for the rebel's escheat : the first donatar's gift being *in anno* 1625, upon a horning *in anno* 1612 ; the posterior gift, *in anno* 1628, upon a horning posterior to the first. They both contend for the right to a bond made to the rebel *in anno* 1614. The first donatar alleges the bond to pertain to him, by reason his gift is posterior to the bond ; and so, by virtue of the tenour of the gift, bearing the king to dispone to him the rebel's escheat goods, pertaining to him the time of his denunciation, and now pertaining to the king, all the gear pertaining to the rebel from the time of the denunciation till the time of the gift of the escheat comes under the said gift, and consequently the said bond acquired by the rebel after his denunciation. The second donatar alleges, That no more comes under the first escheat but the goods and