

the parties. And Tait contended the removing of his wines would spoil them more than the carrying away of malt would have done. Craigie alleged there was an old statute in *Reg. Maj.* anent the giving more timeous warning for removing from cellars than from houses; but he spoke dubitatively of it, and I can find no such act.

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1678. *July 24.* JAMES HAMILTON *against* The EARL of ROXBURGH.

IN the action pursued by James Hamilton, as heritor of the lands of Nine-war, against the Earl of Roxburgh, for buying the teinds from the Earl, as tacksman, or as having right from Maurice Lawder, the first tacksman:

ALLEGED,—They belong to the parsonage of Dumbar, and so cannot be bought.

ANSWERED,—Since the parson was not in possession of them *in anno* 1627, by the King's letter, in May 1634, they may be bought.

The Lords of the Commission for Valuing Teinds inclined to sustain that they might be bought; whereupon the parties agreed, and of consent the Earl was ordained to sell these teinds at nine years' purchase, and to give an heritable and irredecimable right thereof; and decerned the valuation of them, aye till the sale was perfected, to be ten merks the boll of wheat, nine merks bear, and six merks oats.

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1678. *July 25.* LORD CRANSTON *against* TURNBULL.

IN the action between Lord Cranston and one Turnbull, it was ALLEGED there were two sorts of forfeitures; one *via facti*, (as the Earl of Dumbar used to do,) another *via juris*. Two sorts of acquisitions; one by forged accusations against men obnoxious, used frequently in the borders of Scotland; another by sale, and other lawful purchases, in the in-country. And that there were two kinds of treason; one *juris communis, in principem, vel perniciem reipublicæ*; another *juris statutorii*, as theft in landed men, a fictitious and umbratile kind of treason, and, to speak strictly, no treason at all.

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1677. *February 14 and July 27.* The DUKE of BUCCLEUCH *against* The Earl of TWEDALE.

*February 14.*—IN the pursuit, Duke of Baccleuch against the Earl of Twedale, mentioned *supra*, in February 1676, [page 72,] the Lords advised it this day: the interlocutor was long, and must be inquired after. They found the King's ratification of the contract, as father to Monmouth, not sufficient to bind him, &c. The most material parts of it went against Twedale.

*Advocates' MS. No. 545, folio 275.*

*July 27.*—IN Baccleuch and Twedale's cause, after a new hearing, impetrated