

(DUE by *lucrati*.)1628. February 7. N. HOME *against* L. of RENTON.

MONEY due for the price of land, if it, or any part of it, be retained by the buyer of the land, and he possess the land likewise, he will be liable in payment of annualrent for the same, though he be not obliged thereto by contract, as was found between the Laird of Durie and my Lord Ramfay (No 80. p. 542.)

Fol. Dic. v. I. p. 42. Spottiswood, (USURY.) p. 352.

* * * See This case, Durie, p. 340, *voce* HERITABLE and MOVEABLE.

No 83.
Found in conformity with
No 80. p. 542.

1628. December 17. LAURIE *against* GRAHAM of Pannalls.

ANNUALRENT found, by the Lords, due, not only for the price of the lands, the buyer having bruiked the land, but also for the price of the discharge of the reversion of the lands.

Fol. Dic. v. I. p. 42. Auchinleck, (ANNUALRENT.) MS. p. 10.

No 84.

1663. January 28. LORD BALNAGOUN *against* Mr THOMAS M'KENZIE.

BALNAGOUN as donatar to the escheat of his father, pursues Mr Thomas M'Kenzie for the price of some lands sold to him by his father, and for the annualrents since.—It was *answered* for the defender, That there was no annualrent due by the minute; and albeit it was the price of land; yet Balnagoun had never made Mr Thomas a right to this day, but had forced him to be at a huge expences and plea, and so was *in mora*, that the price was not paid; and albeit he did possess the lands, it was by redeeming wadsets thereupon, contained in the minute.

THE LORDS found Mr Thomas liable, either for the annualrent, or for the surplus of the rents of the land, more than paid the annualrent. In this process, it was found, that the probation of a tenor, before an inferior judge, was null. (See JURISDICTION, Prorogation of.)

Fol. Dic. v. I. p. 42. Stair, v. I. p. 164.

No 85.
Found in conformity with
No 82. p. 544.

1684. February 26. EARL of NITHSDALE *against* DUKE and DUCHESS of BUCCLEUGH.

IN the cause betwixt the Earl of Nithsdale and the Duke and Duchess of Buccleugh, reported by Kemnay; 'THE LORDS found, though the minute of sale of

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No 86.
Found, that
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