

*Ibid.* Alleged, No process upon the summons; because the pursuer never libelled what particular quantity of corns grew upon the particular lands, so that it could not be known what the multures came to, (for the libel bore thus, And true it is, that he, and he abstracted their whole corns growing on their lands of, &c. extending to so many pecks, &c. of multure.) The Lords sustained the libel, in respect the particular quantities were referred to the defender's oaths. —25th March 1628.

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1630. January 26.

Ross against Young.

IN an incident pursued by Ross against Young, at the third term he desired letters to summon some witnesses out of the country, upon sixty days. Alleged, He having summoned some witnesses out of the country at the first term, upon the sixty days, he ought not now to have the like; but he should then have condescended upon all his witnesses that were out of the country. Replied, He offered to make faith that they were necessary witnesses, and cannot be prejudged. The Lords would not grant it, for by that means diligence should run out to an infinite time.

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1634. January 16.

The TUTOR of BALMAGHIE against JOHN MAXWEL of MEIKLE COKLIX.

(See the first part of the report of this case, supra, page 199.)

IN the same cause, Found that the compriser having poinded the defender's goods after the expiring of the legal, yet, for the mails of the comprised land addebted before, it should be allowed to him *pro tanto*, in payment of his principal sum and annual-rents.

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