

should fall to them by decease of Harine, an idiot, without the consent of the other; and, in case of failyie, the party failyier should amit his half, and the same should accresce to the other; and so it was that Limpidlaw made disposition of his half, by the others' consent, to —————. To the which it was answered, That failyies, wherein parties receive no prejudice, are not sustained; and in this the other party can allege no kind of hurt nor prejudice done to him, seeing he made disposition of his own half. The Lords would not sustain the failyies, but absolved Limpidlaw from that reason of reduction, and yet ordained [him] to count with his party, if they had any thing to lay to his charge wherein he had wronged them.

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1630. *February 11.* TROTTER'S EXECUTORS *against* The TENANTS of JEDBURGH.

ONE Trotter had granted to him, in pension, during his lifetime, certain monks' portions of the teinds of certain lands pertaining to the abbacy of Jedburgh. He deceases in September 1629. His executors pursue for his pension. The tenants that were in use of payment alleged, That he deceasing before the term of payment of their rental-bolls, they were not obliged to pay them to his executors. To the which it was replied, That although the term of payment was not come, yet the teinds were due to the executors, seeing *fructus*, either in whole or a good part of them, were shorn before the pensioner's decease. Which reply the Lords found relevant.

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1630. *February 13.* The LAIRD of ROWALLAN *against* BOYDE'S RELICT and BAIRNS.

THE Laird of Rowallan intents a declarator against the relict and bairns of Boyde,—who had a tack of him for all the days of his lifetime, for payment of six pounds and his personal service on horseback when he should be required,—to hear and see them decerned to remove. The tacksman deceased about Martinmas. It was excepted by the defenders, That, seeing the defunct was tacksman, his relict and bairns could not be removed but a warning. It was replied, That, seeing liferenters by infestment may be removed immediately after their decease, much more a tacksman. The Lords found the exception relevant.

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1630. *February 15.* The EARL of ANNANDALE *against* DAVID RODGER, Minister of ST MUNGO'S.

THE Earl of Annandale pursues removing against Mr David Rodger, minister