

1631. *February.* The LAIRD of BLAWS *against* WINDRAM, Butler's Relict.

*A Proposition not unfit to be Motioned in Parliament.*

To delete or amend the 26th Act of King James IV, whereby tenants are ordained to remain unremoved till the term of Whitsunday, after the death of the liferenter, &c. paying thereafter the duties used and wont, without consideration of the prejudice that heritors may sustain, if liferenters shall set their lands for a mean duty far within the worth, or for an imaginary duty: As Mr George Butler took a tack of the half of Blaws from the compriser thereof, Mr Robert Windram, for payment of ten shillings sterling; after whose death, his relict, by interlocutor, was found to be obliged only in payment of that tack-duty, till she was warned.

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1631. *February 10.* MARY SCOTT, LADY BANNATYNE, *against* Sir WILLIAM SCOTT of HARDEN.

THE common practise about the charging heirs-apparent to enter to their predecessors is, that they may be charged any time within the year, but summons cannot be raised upon the charge till year and day expire. And the reason why they may be charged at any time, seemeth to have been at first that inhibition might be served against them, which was not wont to be granted but upon some ground of a charge or action depending, &c. But now inhibition has been granted against an apparent heir without any preceding charge; for, if he enter not heir, the inhibition will work nothing; and if he enter, reason would that it should take effect to the behoof of the creditor. This was found between Mary Scott, Lady Bannatyne, and Sir William Scott of Harden, that an inhibition served against Simeon Scott of Bannatyne, heir-apparent, should be effectual for hindering him to dispone his lands, albeit there had no charge preceded nor any other dependence at all.

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1631. *February 11.* JAMES MATHESON *against* JEAN MATHESON and JOHN ARTHUR.

THERE was a summons intented at James Matheson's instance against Jean Matheson his father's sister, and John Arthur her assignee, and others his creditors, to hear and see him restored against a deed of his mother's, whereby she, being left tutrix-testamentar to him, had confirmed him, being an infant, executor to his father, and so made him liable to his father's debts and the legacies left in his father's testament. The reason why he sought to be restored was, because his tutrix had wasted all the goods contained in the testament; and so he, having no benefit by that office, he craved to be reponed against it; or at least that he should sustain no prejudice by it. It was excepted, That he could not seek to be restored against the office of executory, because he sustained no