

if the compriser, that had right to the mails, did suffer another to meddle therewith, while the legal were expired, seeing, by that means, he should both want the duties of his lands all the foresaid years, and likewise lose the property thereof after seven years. Triplied upon the Act of Parliament 1621, bearing that the compriser should be countable, if he pleased to intromit, and accordingly did intromit; which words did not enforce a necessity of intromission upon him. The Lords repelled the allegiance, unless the defender would say, positively, that the pursuer had intromitted himself.

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1634. *January 29.* MARGARET WILKIE *against* SIR ROBERT HEPBURN.

George Seaton of Northrig, having infest Patrick Newton of that ilk in an annual-rent of 500 merks out of his said lands, disposes the same lands to the Laird of Faldonside, with the burden of the said annual-rent: Which Faldonside disposes them afterwards to Sir Robert Hepburn with the same burden. Margaret Wilkie, as having right, by progress, to the said annual-rent from Patrick Newton, pursued Sir Robert for certain by-runs of the same. Alleged, Absolver; because the annual-rent was in his hands as superior; by reason of non-entry, the heirs of the said Patrick never being infest therein. Replied, Ought to be repelled; because, by the first contract of disposition of the said annual-rent, George Seaton was obliged to pay the same, as well not infest as infest; and, as the said George could never have alleged this, no more can this defender, who is now come in his place, by acquiring the same lands with the burden of the said annual-rent. Duplied, The defender is liable to the real burden thereof, but not to the personal obligement, being only singular successor to the said George. The Lords repelled the allegiance in respect of the reply, and found that the defender, having acquired the land with the burden of the said annual-rent, he became debtor thereof, and obliged to pay the same in the same manner that the principal party, granter of the security, was bound to do.

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1634. *February 4.* The LAIRD of WEDDERBURN *against* JOHN STUART and ROBERT DOUGLAS.

THERE was a decret obtained against the Laird of Wedderburn, by John Stuart of Coldingham, his superior, for reducing Wedderburn's infestment for not payment of the feu-duty, in which decret Robert Douglas, donator to the said John's escheat and liferent, was a party in whose favours the decret was given. This decret was craved to be reduced, at Wedderburn's instance, upon the Act of Parliament 1633, whereby the superiorities of erections were annexed to the crown, and declared to have been from the date of the commission 1627; after which time the decret had been given at John Stuart's instance, which could