

1634. *March 26.*                    STEWART *against* IRVINE.

A DECRET given before the commissary of Dunkeld, whereby one was de-  
cerned executor dative *ad admissa*, to a defunct, was found null by way of ex-  
ception; because the decret did not bear that the principal executor was cited  
to the giving thereof; albeit it bore that all parties having interest were lawfully  
cited, and the pursuer offered to prove that the principal executor was sum-  
moned to the same. Page 39.

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1634. *July 10.*    LORD BALMERINOCHE *against* GILBERT ELLIOT of STOBBS.

THE same found as in the case M'Martin *against* Cowper, 15th and 24th  
February, 1627. Page 43.

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1634. *July 12.*    LORD BALMERINOCHE *against* GILBERT ELLIOT of STOBBS.

IN an order of redemption sought to be declared by the Lord Balmerinoch  
*against* Gilbert Elliot of Stobbs;—Alleged, The order was not good, in so far as  
concerned the redemption of an annual-rent of 400 merks; because, by the rever-  
sion, the premonition should have been made to the eighth day after the term,  
and the pursuer had made it to the term's eve. Replied, That was introduced  
in favours of the pursuer, that he could not be astricted precisely to the term,  
but might have eight days after to provide his money; but, since the pursuer  
craved not that benefit, but presented the money sooner to the defender, he  
could not quarrel the order, he having received benefit by it. Duplied, Rever-  
sions are *stricti juris*, and must be fulfilled punctually; so that he could not be  
premonished to another day than was contained in the reversion. The Lords  
found the exception relevant.—*12th July 1634.*

In that same cause, Alleged by the defender, that the consignation could  
not be sustained, because he offered a renunciation to be subscribed by Laurence  
Scott, by virtue of a procuratory from Gilbert Elliot, who was but liferenter, and  
his son, Mr John, who was feer, was present, and offered to subscribe for himself.  
Answered, He could not be obliged to receive a renunciation by a procurator,  
*quia inauditum*. Which the Lords found, and in respect thereof found the con-  
signation good. Page 305.

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1634. *November 20.*    The LAIRD of LAGG *against* ALEXANDER WAUCH of  
SHAWS.

THE Laird of Lagg, in a removing pursued by him *against* Alexander Wauch  
of Shaws, clothed himself with a comprising of one David Welsh, which he had  
led *against* Thomas Wauch, the defender's father. It was Alleged, That Lagg  
behoved to say that David Welsh was seised, by virtue of his comprising, du-