

That these teinds [were] acquired by her father, not only since the rebellion, but after sundry years after the gift, and year and day thereafter: likeas she had a gift since syne, comprehending the same, because the tenants were not holden to have known that. Which the Lords sustained in favours of the tenants; leaving to her liberty to seek repetition off him who got payment. Yet it is objected, That the discharges given by a factor were not sufficient probation, unless the factory were produced;—whereupon they took a day for production of the same; and it was protested, in the meantime, That the discharges should be allowed for no more but what was really paid, in conferring them with the quantities confessed in the depositions.

Page 134.

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1650. *January 4.* REBECCA DENNISTONE *against* THOMAS HAMILTONE.

[See page 435.]

IN that removing, at the instance of Rebecka Dennistone, Thomas Hamiltone and his tutor were ordained to produce all right that he could pretend against her, whether renunciation or any other; neither had the maxim, *quod minor non tenetur placitare de hæreditate paterna*, any place in this case.

Page 135.

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1650. *January 4.* AGNES WOOD *against* ROBERT GALBRATH, BUCHANNAN, and GRAHAME.

IN the action at Agnes Wood her instance against Robert Galbrath, Buchannan, and Grahame, for making arrested goods furthcoming; or payment of a bond, conceived [by] Scotchmen dwelling in Ireland, and whereof the payment should have been made at a certain place in Ireland;—it was excepted, That *actor sequitur forum rei, et locum solutionis* must make the debt payable only there. To the which it was replied, Upon the constant practick of pursuing any stranger whomsoever, for execution against the defenders' goods that could be apprehended in Scotland. Which the Lords sustained. But, in the matter of making arrested goods furthcoming, it was thought there behoved a sentence first to pass, before the execution by arrestment could have place. And this bond of the English fashion can have no decret but by way of action, since it wants a clause of registration; and, if it were upon a dependence, the decret behoved to be obtained before the summons to make arrested goods forthcoming could be well raised.—See page 455.

Page 136.

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1650. *January 4.* ISOBELL KER *against* The BAIRNS of SIR PATRICK MAKGIE.

THE action at the instance of Dame Isobell Ker, for her third, was sustained against the bairns of Sir Patrick Makgie, as intromitters with the goods and

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