

1665. *June 28.* WILLIAM KINTORE *against* LOGAN and JOHN BOYD.

IN a pursuit, Mr William Kintore against Logan and John Boyd, for tutorcounts, it being ALLEGED by the defenders, That Ought and Should intromit was not relevant, and that the tutors were only liable for their actual intromissions, and that they were not liable for *usuræ usurarum*;—

The Lords found, That a tutor ought and should intromit; and that the same, being libelled, was relevant; and found, that tutors were liable for the annualrents of the annualrents *post tutelam*, but not *durante tutela*.

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1665. *July 5.* The LAIRD of POLWART *against* The TENANTS of LOGIE.

THE Laird of Polwart, being titular of the teinds of the parish of Logie, which is a kirk of the abbacy of Northberwick, pursues the tenants for payment of their teinds since 1637.

It was ALLEGED for the tenants, That they could not be liable, because they had paid a joint duty of stock and teind to their master; which was sufficient to exoner them.

To which it was REPLIED, That the pursuer, having right to the teinds, and having served inhibitions yearly, he has good action to pursue any that have intromitted therewith; and specially the tenants, who were put *in mala fide* by inhibitions: and, if they paid for the teinds to their master, who had no right, they did it upon their own peril; and they may retain the subsequent duties of the stock for their relief.

The Lords sustained this action of spulyie; and ordained the tenants to depone, *ut constet de debito*: but did not advise what they could do with the inhibitions, how far the same could put the tenants *in mala fide*, being of great consequence.

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1665. *July 7.* LESLIE *against* GEORGE BROWN.

IN a reduction of a disposition made by George Reid to John Brown, his brother-in-law, pursued at the instance of Adam Leslie, upon the Act of Parliament 1621; as being granted to a confident person without any onerous cause, in prejudice of the pursuer, who was a lawful creditor to George Reid;—

The Lords found, That George Brown, the defender, could only be liable to give his oath upon the cause onerous of the disposition, and condescend thereon, and prove the same by writ; and assoilyied from the reason as it was libelled.

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