

cognosce the decret of another court ; and therefore turned the decret of spuilie into a libel.

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1687. *February.* The PROCURATOR-FISCAL of PEEBLES *against* FAIRINGTON.

A WIFE'S discharge, *in lecto*, of all right she had in her husband's goods, does not hinder confirmation at her death, more than assignation *in lecto* doth hinder confirmation of the subject assigned. And it was debated, That, though a wife hath no creditors to confirm it, or her nearest of kin neglect to do it, the procurator-fiscal may confirm for securing her part of the goods ; 2. That the wife's disposition of her share of the goods in communion to her husband, in *liege poustie*, stops confirmation ; and she hath not *retentam possessionem* to infer simulation, as when a husband assigns to his wife. *Vide* No. 474, [Procurator-Fiscal of Peebles *against* George Rutherford of Fairington, February, 1688.]

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1687. *February.* DUNCAN CAMPBELL *against* STROWAN ROBERTSON.

A RIGHT found conveyed by an intimated assignation, and not to be *in bonis* of the deceased cedent, but in the person of the assignee, as formal creditor, though it appeared, by the assignee's oath, that the assignation was granted for the cedent's behoof.

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1687. *February.* JOHN CALLENDER *against* CREDITORS of CRAIGFORTH.

FOUND that a base infeftment was clothed with possession only by a summons of poinding the ground, raised and called *declaratorie ante terminum*, or by a decret obtained, after the infeftment, for a term's annualrent prior to the infeftment. *Vide* No. 606, [Forrest *against* John Callender, January, 1687.]

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1687. *February.* ROBERT CRAWFURD *against* The MAGISTRATES of Ayr.

THE magistrates of Ayr having, by an act of council, commissioned an agent to manage their affairs, he pursued the succeeding magistrates for payment of his accounts. Alleged for the defenders, That the pursuer's accounts ought not to be sustained, being for managing a factious process at the employer's in-