

husband's debts ; as was found, *20th February 1667, Cranston* ; and *12th July 1691, Gray*. Then the question arose, If Renton, who was to serve heir, ought not to have up the writs before he ratified Wilson's right.

The Lords found, *ante omnia*, he ought to have his papers.

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1696. *July 14.*---Arbruchel reported the cause Renton against Wilson, mentioned 1st February 1695, being a pursuit to denude of the half of Edward Dod's estate, both personal and real, and to implement his deeds.

The Lords thought the assignation carried heritage as well as moveables ; and that the husband's consent to the wife's deed carried the right sufficiently, and therefore decerned him to denude ; and found the intromission he had could not stop the same ; but he implementing, the other behoved to count and reckon with him.

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1696. *July 14.* The COUNTESS of WEYMSS and her BARON-BAILIE *against* The BAILIES of the BURGH of WESTER-WEYMSS.

ARBRUCHEL reported the Countess of Weymss, and her Baron-bailie, against the Bailies of the Burgh of Wester-Weymss, who had suspended a stent imposed on them for repairing a bridge. They contended, By their erection they were not answerable to her courts, but had privileges within themselves derived from the Earl of Weymss.

The Lords, finding the stent was *in re minima*, and imposed of consent, decerned, without dipping or encroaching upon their privileges, or determining whether it was *a non suo iudice* or not ; or if the Earls of Weymss, granters of their charter, retained a cumulative jurisdiction, or gave it away *privativè*.

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1696. *July 28.* MURRAYS *against* DAVID SCOT of SCOTSTARBET.

HALCRAIG reported the pursuit, at the instance of the brethren and sisters of Sir James Murray of Philiphaugh, as executors to Jean Murray, their sister, against David Scot of Scotstarbet ; being a declarator, that the transaction made by the Lady Philiphaugh, their step-mother, as to the 17,000 merks of portion due to her daughter, their sister, could not prejudice them who were nearest of kin ; and, she being an infant, her mother could not, by substituting herself in case of her decease, prejudice their natural succession ; and the sum transacted for coming in place of the portion, *capit naturam ejus in cuius locum surrogatur*, and consequently belongs to thir pursuers ; and the defender Scotstarbet, who got a voluntary right of it from Lady Philiphaugh, his aunt, must be debtor to them and refund it.

ALLEGED,—The debt by the transaction became innovated, and there is no surrogation in the case ; likeas this portion was not the sole ground, but the Lady renounced also her jointure of 1800 merks per annum ; and if they quarrel it *quoad* one, they must reponne Scotstarbet, as the Lady's assignee, *quoad*