

1735. *January 16.*

COMMISSIONERS of EXCISE *against* MITCHELL of Piteddie.

No. 3.

CAUTIONER in a tack of excise for six years, his heir found liable, though not taken in the King's name agreeably to 39th act Henry VIII., but in name of the Commissioners for the King's use; *2do*, Though the revenue could not be farmed beyond three years, (23d and 24th acts, 12th Ch. II.,) in respect this tack contained a breach in favours of the Commissioners at each two years, and the tacksman possessed the hail six years; and, *3tio*, Found liable for what fell due after the cautioner's death as well as before, though it was doubted if cautioners for officers of the revenue removable at pleasure, are liable for what is collected after their death.

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1735. *December 9, 20.*

FORBES of Waterton, and GORDON, *against* EXECUTORS of LADY SALTOUN.

No. 4.

CAUTIONERS in a tack not liable after it is expired, *per tacitam relocationem*; and therefore a tack to a tacksman and cautioners, whereof the endurance was referred to a third party, who never determined, though the tacksman possessed for several years, yet the cautioners found only liable for the first year.

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1736. *July 22.*

MARSHALL *against* THOM.

No. 5.

CAUTIONER in an obligation to sell a stocking belonging to an infant, and to lend out the same, and make it forthcoming to the infant and her mother; found not to have the benefit of the quinquennial prescription on the act 1695.

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1736. *December 3.*

ROBERTSON *against* M'LINLAY.

No. 6.

A CAUTIONER in a bond of presentation, viz. to present the prisoner or pay, because it is principally *ad factum prestandum*, has no benefit of the act 1695. See No. 10. *infra*.