

1628. *January 26.* DRUM *against* His TENANTS of CONCARDIE.

TENANTS pursued for spuilie suffer decret to pass against them, as holden *pro confesso*;—they suspend, that the libel was exorbitant, and that it contained wheat and pease, where never any were sown in that ground, and desired to be reponed to their oath. The Lords, out of consideration of the exorbitant quantity and untrue quality of the corns, gave it to the pursuer's option, either to repon the defenders to give their oaths, or else to the pursuer to give his own oath *de credulitate*.

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1628. *January 28.* WILSON *against* KNAVE, or GIBSON *against* HOWIE.

Two parties having submitted the questions betwixt them to one that was a notary, the said notary subscribes the commission, at command of the parties, for them, and likewise the blank whereinto the decret-arbitral pronounced by him was inserted; and one of the parties being charged to fulfil the decret, which contained the sum of 40 merks, to be paid to the other, he suspends,—alleging the decret to be null, as proceeding upon a submission submitted by him who was chosen judge. The Lords sustained the decret, in respect of the small importance of the matter, and of the place where it was subscribed, being in landward, where other notaries could not be commodiously had for the time.

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1628. *February 2.* ——— *against* ———.

IF a tacksman of teinds has been in possession of leading, yet hath been ten or twelve years out of possession, he may not, *brevi manu*, repossess himself by virtue of that tack.

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1628. *February 2.* ÆDIE *against* GRAY.

A CREDITOR pursuing an intromitter, who, after the creditor's citation, had confirmed the testament as a creditor, alleging the defunct to be justly owing to him as much as the year contained in the testament would extend to, and so had a good reason to retain the gear intromitted with by him, for satisfaction of his own just debt;—the creditor, pursuer, in respect of the diligence and citation before the confirmation, alleges he ought to be preferred. The Lords ordained the pursuer that used citation before the confirmation, to have the debt paid to him, *pro rata* with him that confirmed. The Chancellor's vote decided cause.—[*See 26th January 1628.*]

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