

1630. *January 29.* ROBERT MURRAY *against* THOMAS MYLLES.

THE deceased John Coustoun, burgess of Dundee, infest Thomas Mylles, his brother-in-law, in two tenements of land in Dundee, under reversion of ten shillings, to be redeemed by John Coustoun, in his own time allenary. John Coustoun uses the order of redemption in his own time, and intents declarator; and, having made Robert Murray, a creditor, assignee to the said reversion and redemption,—after intimation thereof, John Coustoun departs this life, and Robert Murray pursues a transferring of the said order of redemption. It was alleged by Thomas Mylles, That the pursuer could not have transferring; because he was not made assignee to the order of redemption. To the which it was replied, That, in so far as he was made assignee to the redemption, after the order thereof was used, it behoved to import that he was made assignee to the order. The Lords decerned transferring.

*2d MS. Page 198.*

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1630. *February 24.* PATRICK OLIPHANT *against* JOHN OLIPHANT of BACHILTOUN.

PAYMENT of a term's annualrent, upon an heritable bond, whereupon, after the term, infestment was taken,—this base infestment, not clad with any other possession but the said term's annualrent, received before the infestment, will not be preferred to a public infestment, holden of the superior, albeit posterior to the base infestment.

*2d MS. Page 117.*

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1630. *March 9.* MR WALTER WHYTFORD *against* SIR JAMES KNEILAND.

MR Walter Whytford, being presented, by the king, to the subdeanery of Glasgow, craves letters conform to his presentation and collation. Compears Sir James Kneiland, and alleges, That he was infest by the king in the patronages of the kirks of Monckland and Calder, upon the resignation of the Earl of Haddington, *anno* 1604, and, by virtue thereof, in possession, by presenting of one Rowat to the kirk of Calder; which infestment, granted to the said Earl of Haddington, his author, was ratified by the subsequent consent of Mr Patrick Walkenshaw, then sub-dean of Glasgow; and so, by virtue of the Act of Parliament, made *in anno* 1593, he had undoubted right to the patronage of the two kirks; and, howsoever letters conform might be granted to the rest of the subdeanery, yet the said letters could not be extended, in favours of Mr Walter Whytford, to the fruits and rents of the said two kirks of Monckland and Calder, but the fruits thereof behoved to remain and pertain to the persons that should be presented by the said Sir James's undoubted patronage thereof, by his infestment. To the which it was replied, That the said two kirks, being a part of the subdeanery, could not be dismembered from the same, but upon resignation of the