

sub-dean ; and his subsequent consent was not sufficient, in a formal manner, to dismember the said benefice, when the same did not vaik ; and so the pursuer might have letters conform. In respect of the which reply, the Lords repelled the exception.

*2d MS. Page 128.*

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1630. *July 23.* The LAIRD of PITSLIGO *against* ALEXANDER DAVIDSON.

IN an action of reduction intended by the Laird of Pitsligo, against Alexander Davidson, for reduction of a retour, whereby the said Alexander was served heir of line to the Laird of Pitsligo, his mother's father ; by reason the said Alexander was a bastard, in so far as his mother was first married to the Laird of Auchinhove, and, during his lifetime, married to Thomas Davidson, father to the said Alexander ;—it was alleged in this action, That this matter of the bastardy was merely ecclesiastical, and so pertained to the commissary courts. The Lords repelled the allegiance.

*2d MS. Page 25.*

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1631. *February 23.* HENRY *against* LYON.

WHERE an exception is proponed, and the excipient has raised an incident for proving his exception ; and, circumducing the first term of his diligence, refers the exception to the pursuer's oath, and, at the day assigned to the party to depone, he would resile ;—the Lords would not suffer him, in respect of the state of the process.

*2d MS. Page 162.*

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1632. *February 8.* RAMSAY *against* DURHAME.

IN contracts matrimonial, where some deeds are to be done to the wife, and some to the heirs of the marriage, the contract cannot be registrat, but at the party's instance that wants implement of that part.

*2d MS. Page 220.*

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1633. *March 21 and 26.* KING CHARLES I. *against* The EARL of MONTEITH.

WILLIAM, Earl of Monteith, in May 1629, is served heir, by a general service, to Malise Grahame, Earl of Strathern ; and at the same time, by another service, he is served general heir to Eupham Stewart, mother to the said Malise, and Patrick Grahame, her spouse, as Earl and Countess of Strathern ; and, by a third service, he is served general heir to David, Earl of Strathern, son lawful to Ro-