

1630. *December 7.* The EARL of CARRICK *against* The DUKE of LENNOX.

A DECRET being given, after letters conform, to a pension granted by the Duke to the Earl, of silver, to be paid out of the lordship of St. Andrew's, against the granter, and the chamberlains of that lordship; after the which decret, the Duke, granter thereof, and against whom the sentence was given, being deceased, and the present chamberlain to this new Duke of Lennox being charged to pay the pension for the years owing since that sentence,—the Lords found that no charges could be granted against this Duke, while letters conform were first transferred in him; for this being a pension from a laik, it ought not to be respected as a pension flowing from an ecclesiastical person.

*Act.* Stuart. *Alt.* Burnet. Hay, *Clerk.* *Vid.* 20th January 1627, Weyms *against* Duke of Lennox.

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1630. *December 23.* HUME *against* The SHERIFF of BERWICK.

THE L. of Rentoun, as sheriff of Berwick, being charged by Hume of Law, to take L. Wedderburn rebel, for debt; and he suspending, that, the time of the charge, he being employed by the Lords of Council to try certain witches, and do justice upon them, he was at that time actually in judgment sitting, doing justice in executing of that commission, within the kirk of Eymouth, where a great number of the country people were convened for that effect; and which being of greater importance than the other wherewith he was charged, he could not desert the same to do the lesser, and thereby to disappoint the service wherein he was intrusted, and was executing;—this reason was not sustained; because the charger offered to prove that the rebel was, at that time of the charge, then present conferring with the sheriff, and sitting close in judgment beside him; at which time he did no manner of diligence against him to apprehend him, as he then ought, and might have done, and could allege no cause why he might not have offered then some obedience to the charge, by some sort of diligence.

*Act.* Craig. *Alt.* ———. Scot, *Clerk.*

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1631. *January 13.* BARCLAY *against* The EARL of CASSILS.

IN this cause, witnesses being ordained to be examined, *ex officio*, as is noted, 21st December 1630, and a commission being granted to examine Alexander Barclay's wife, and ordained to be reported at a day assigned to that effect;—the defender being urged by the pursuer, at that day, to produce the report: and he alleging that he could not be compelled to produce the same, seeing the commission was granted in his favour, and he had either power, as he pleased, to use and execute the commission, or to desert the same; or, if he pleased, albeit it