

masters was extended to Leith, albeit it be not a free burgh, because it is greater, and tenements dearer in it nor in any other burghs.

*Haddington MS. v. 2. No. 2358.*

No. 42.

1624. November 6. L. BONNINGTON *against* CRAWFURD.

No. 43.

In an action betwixt the L. of Bonnington and Malcolm Crawford, the Lords found, that albeit one of the witnesses who were produced by the L. Bonnington, was within degrees of blood, which of law repelled witnesses if the descent had been from a lawful conjunction, yet that the witness might be admitted, likeas he was admitted to bear witnessing, seeing the reckoning was from a bastard, who of the law is reputed to be procreated *ab incerto patre*, and so not to make consanguinity; and therefore the same was found no cause to repel the witness; albeit it was alleged, that he being of a bastard took not away the ground and reason of affection. Nam Bartol. dicit eos non posse recipi ob affectionem naturalem.

Yet this hath been usually done.

Act. *Cunningham.*

Alt. *Belsches.*

Clerk, *Gibson.*

*Durie, p. 143.*

1625. July 29.

A. *against* B.

No. 44.

In an action betwixt two parties, the Lords found, that any person, who had a tack for certain years enumerated in the tack, as a nineteen year or fifteen year tack, or sicklike, and where the tack was not specially for the tacksman's life-rent, he might not be witness to him who set the tack; but if the tack were a liferent-tack, he might be witness; wherein I perceive not any great reason of difference.

Clerk, *Scot.*

*Durie, p. 183.*

\* \* \* The following seems to be the same case :

1625. July 29.

SIR JOHN SCOT of Scotstarbet, *against* The LAIRD of BARNES.

No. 45.

Sir John Scot of Scotstarbet pursues contravention against the Laird of Barnes, Leads witnesses for proving his libel. Objected against one of them, He has tack of lands set to him by the producer Sir John for 17 years to run, and so removable after 17 years. Answered, *Non relevat*, Because having tack he is not removable at the producer's pleasure. The Lords find the objection relevant, unless it were alleged he had a liferent-tack.

*Nicolson MS. No. 42. p. 22.*