

1628. *June 2.* RAGUEL BENNET *against* WILLIAM DAVIDSON.

RAGUEL Bennet pursued William Davidson for twenty bolls of victual, as for the duty of certain lands yearly, 1620, 1621, 1622, 1623. The first three years were elided by the defender; as for the 1623, he denied his occupation of the said lands that year; whereupon there was probation led against him, and witnesses examined in the cause, but nothing further done. After this, the defender pursues Raguel before the sheriff of Selkirk, for twenty bolls of victual delivered by him to Raguel; which action being advocated before the Lords, Alleged the summons was not relevant, except he would condescend upon some cause of delivery of the said bolls to Raguel. Being forced to condescend, he affirmed it was for the duty of the former lands, 1623. Replied by Raguel, He could not be heard; because, that exception being competent in the cause pursued by him against Davidson, he had omitted it, and had denied his occupation of these lands that year. Duplied, It was but a mistake, and he, being *rusticus et ignarus juris*, should be reponed. Which the most part of the Lords granted.

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1628. *June 2.* JOHN WILSON *against* ALEXANDER HAY.

JOHN Wilson was reponed against a decret obtained against him by Alexander Hay, upon this reason, that it was gotten under assurance given him by Hay not to call the said matter. Another reason was added, That the ground of the decret was upon a debt owing by an heritable bond, which, belonging to the creditor's heir, the action was only competent to him, and not to the executor, who had pursued it. Which reason was found relevant likewise.

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1628. *June 18.* BARBARA BLACADER *against* NATHANAEL EDWARD.

A SUMMONS libelled by Barbara Blacader against Mr Nathanael Edward, bearing that where she had a chain of gold with a tablet at it, of such a weight, and a gold ring with a sapphire, which things she wore as her own upon her body for the space of five years; true it was that the defender did intromit therewith, 1613, and yet had the same, at least had fraudulently put them away; wherefore she craved them to be restored to her. This libel was quarrelled; because it bore not that these jewels pertained to her, but only that she had worn them as her own for five years; next, the five years were not condescended on, that they were immediately preceding his intromission, 1613. The Lords sustained the libel; her wearing to be proven by witnesses, and his intromission by writ or oath of party.

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