

given by him to his client; but, for the verity of that which is *in fact*, he could not eschew it. The Lords repelled the exception.

*Page 246.*

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1628. *November 20.* HUGH ASHTON *against* WILLIAM STUART and OTHERS.

HUGH Ashton, having obtained the gift of William Stuart's escheat, pursued a declarator thereof. Compeared one of the rebel's creditors, and Alleged, No process upon the gift; because it made no mention of the particular horning whereupon it was granted, conform to the common style of all gifts. Replied, to excuse this piece of informality, That the gift was drawn up at court by the secretary, who understood not so well our forms; and, to supply this neglect, they had condescended upon a particular horning in their summons of declarator, which is as much as if it had been expressed in the gift. Yet the allegiance was sustained.

*Page 103.*

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1628. *December 6.* GEORGE LAWSON *against* JOHN JOHNSTON and ANDREW DICK.

Mr George Lawson, donator to the escheat and liferent of the Laird of Boghall, having obtained a general declarator thereof, intended a special declarator against John Johnston and Andrew Dick, for payment of 600 merks of steelbow goods, addebted by them to the rebel, by a tack set to them by him, 1626. Alleged, That the steelbow goods could not be craved as fallen under escheat, because they were not payable to the rebel the time of his decease, neither could be craved before the expiring of the tack, whereof there were divers years to run: for the donator could be in no better case than the rebel himself, or his heir or executor. Answered, He sought only his right to be declared, but was content to supersede the execution during the tack. Duplied, Albeit he would supersede the payment, yet he can have no decret against the tenants till the term of payment, because it was alike as in an action to make arrested goods forthcoming. The Lords repelled the allegiance in respect of the reply. Further Alleged, The steelbow goods could not be craved as escheatable, because they are a part of the tack-duty, payable the last year of the tack, before the removing, as the tack bore; and so should appertain to them that had right to the tack-duty, after Boghall's decease, and not to the rebel nor the donator. The Lords repelled this allegiance likewise.

*Page 150.*

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1628. *December 10.* N. SOMERVILL *against* The MINISTER of LANARK.

N. SOMERVILL being presented to an hospital beside Lanark, by the Laird of