

1630. *July 19.* NISBET *against* The LADY ABERCORN.

A CREDITOR using diligence against his debtor, rebel, before a declarator be sought of the rebel's escheat, preferred to the donatar.

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1630. *July 22.* WILLIAM OLIPHANT *against* The EARL of MARISHALL.

MR William Oliphant charges the Earl of Marishall to content and pay to him an annualrent of fifty bolls victual, by virtue of an heritable bond whereby the said Earl was obliged to infest the said William in certain lands of Strabrick, under reversion of 2500 merks. He charges for divers years since the date of the bond, which was *in anno* 1617. The Earl suspends, upon this reason, That the said Mr William was never in possession of the said victual, and is content to pay him ten for the hundred. The Lords ordain him to pay ten for the hundred of the byruns.

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1630. *July 22.* BROWN *against* NISBET.

UMQUHILE Kellie, clerk of Dumbar, his prothocoll was produced before the Lords to verify a transumpt of a seasine produced in an action betwixt Brown and Nisbet. In the which prothocoll, a great deal of the seasines were subscribed by the clerk: and many were not subscribed by him, but written with his servants' hand; amongst the which, the seasine quarrelled was one. Yet, because it was in the midst of the prothocoll book, and no suspicion of falset could be perceived, the transumpt was sustained, because it was offered also to be proven, by witnesses inserted in the seasine, that the same was truly given.

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1630. *November 12.* LAIRD LIMPIDLAW *against* MR JAMES AIKENHEAD.

THE legal reversion expires after seven years from the date of the comprising, and not from the time of the Lords' allowance of the comprising, or from the time of the infestment following thereupon.

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1630. *November 16.* The LAIRD of CLACKMANNAN *against* JAMES ALLARDYSE.

THE Laird of Clackmannan, being infest and seised by Collace of Bonny-

moon in an annualrent of 600 merks furth of the lands and barony of Bonnymoon, or any part thereof, lying within the parish of Menmure, and sheriffdom of _____, pursues an action for pointing of the ground. Compeared James Allardyse of Kinneff, who had comprised certain lands within the said barony after the said Laird of Clackmannan's infeftment; and alleged, No pointing of the ground can be granted upon the seasine produced by the Laird of Clackmannan, but for pointing of the lands called Bonnymoon, with the pertinents, seeing there was no such barony called Bonnymoon; and if any barony was which pertained to the Laird of Bonnymoon, it was the half barony of Menmure, which was not mentioned in Clackmannan's infeftment. To the which it was answered, That *falsa designatio* could not vitiate the seasine, *cum constat de subjecto, viz.* his lands and barony lying within the parish of Menmure; and, seeing he had no other barony lying within the parish, the seasine must be understood to be of that barony; and the same being a barony, a seasine taken at any part thereof, was sufficient for an annualrent out of the whole, or any part thereof lying contiguous. It was duplied for the defender, That Bonnymoon was only infeft himself in the half barony of Menmure. Whereunto it was answered, That the Laird of Bonnymoon, goodsire to this laird who disposed the annualrent to Clackmannan, was infeft himself in the half barony of Menmure, and had infeft his oye in the said lands, to be holden *in libera baronia*; which infeftment was confirmed by the king; and so thereby the half barony was, by virtue of the king's confirmation, made a barony. The Lords sustained the seasine to give action to Clackmannan for pointing of any part of the lands of the barony lying contiguous.

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1630. November 20. BESSIE RUTHERFOORD *against* JANET HATELIE.

JANET Hatelie being pursued by Bessie Rutherfoord, to content and pay to her the sum of 48 merks, conform to her bond; the defender suspends, upon this reason, that the bond was granted when the defender was clothed with a husband, and so not obligatory. To the which it was answered, That the pursuer offered her to prove that the bond was granted for furnishing of meat and drink to the defender when she was in Edinburgh doing her husband's affairs, who was now dead, the time of the pursuit. The Lords ordained the defender's oath to be taken upon this reply.

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1630. November 21. WOOD *against* _____.

A RELICT is pursued as universal intromitrix. She excepts, That her intromission was necessary, being certain household gear, which she could not cast out of the house, and she was content to make the same forthcoming to creditors. It was replied, That she had used the said household gear, such as bedding