

BARBARA LYON *against* FERGUS GRANT.

BARBARA LYON being in a shealing in the same bed with her brother, Fergus Grant came also into the same bed; and the brother, being examined, deponed that he was wakened in the night by his sister and Grant struggling together. Barbara insisted that she was that night got with child by Grant: she brought forth a child accordingly, and pursued Grant for aliment: Grant acknowledged being in bed with her, but denied carnal knowledge. The Sheriff of Perth allowed her to depone in supplement: a bill of advocation was presented upon this, and refused; she deponed, and decret was pronounced in her favour. This decret was afterwards suspended; but the letters were found orderly proceeded.

In this case, the presumption was strong: Grant owned being in bed with the girl: and her brother, in the same bed, deponed as to their struggling. The birth of the child and the time of it concurred. The Sheriff therefore allowed the oath in supplement; but had the circumstances been less strong, or had the affair rested merely on the assertion of the woman, or simply upon the man's being in bed with her, probably an oath in supplement would not have been allowed; because, in such a case, it resolves into a woman's proving her own cause.

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PROPERTY.

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ALTHOUGH a proprietor, whose lands front the sea, should maintain that he has property, from highest flood-mark to the lowest ebb, of all minerals, both above and below ground; also of the sea-weed growing on the rocks, or thrown in upon the shore, yet so unlimited and free is the right of sea-fishing, that, within this property, it is lawful for any of the lieges to gather wilks, cockles, limpets, muscles, and other small fish, or bait for taking fish, (see FISHINGS.) See, in confirmation of this, *24th May 1549, Town of Crail against Grizel Meldrum*, observed by Balfour, p. 626. As to lug, or other bait, it is particularly to be observed, that if fishing in the sea be *juris publici*, taking bait proper for the fishing must be so also, for this is essential to the fishing itself, and is therefore equally the property of all who have occasion to use it. See *Arg. Mowat of Garth against Bruce Stewart of Symbister*, decided *3d December 1776*; see *26th January 1762, Earl of Errol against Sidney*.