

and Sir William Cunningham, pretending right to the duty of certain lands of Halls, which pertained to the old Lady Sutherland in liferent.

*Page 121.*

---

1631. *February 15.* JOHN INGLES [OF DOUGLAS] *against* ANNA SHARP.

JOHN Douglas, merchant, pursues Anna Sharp, relict of umquhile Robert Bruce of Pitlithie, executor confirmed to umquhile John Sharp, for payment of certain merchandise furnished for apparel to the said umquhile John Sharp, a little before his decease. It is excepted by the defender, That the said umquhile John Sharp being minor, his executors cannot be obliged for any gear furnished to him without direction of his curators. It was replied, That the pursuer being his merchant before, and in use to furnish him, and he being past 17 or 18 years of age, might very lawfully take up such merchandise as was necessary for him, *viz.* apparel, whereof he produced the accounts, and offered to prove the delivery of the particulars to the minor, and referred to the Lords the reasonableness of the prices. The Lords repelled the exception, in respect of the reply.

*Page 135.*

---

1631. *February 16.* THE LORD CRANSTOUNE *against* ANDREW SCOTT.

THE Lord Cranstoune, superior to Sir John Scott of Newburgh, of the lands of Favodsheill, seeks a declarator of the said Sir John his liferent, as fallen to the superior, by his vassal's remaining at the horn attour year and day. Compares Andrew Scott, chirurgion, creditor to the said Sir John, and who had comprised from him the said lands, alleging, No declarator can be granted of Sir John his liferent in favours of the pursuer, superior; because he, as creditor, had comprised the said lands, at the least, had denounced the said lands to be comprised before expiring of year and day, after the said Sir John was denounced rebel. To the which it was answered, That the horning being *in cursu*, and the rebel not being relaxed before the expiring of year and day, the denunciation of the lands could not prejudice the superior of his casualty, except the creditor had comprised the lands and charged the superior to receive him before year and day had expired. Which reply the Lords found relevant.

*Page 50.*

---

1631. *February 22.* DAVID MURRAY OF HALMYRE *against* LORD YESTER.

IF the sums contained in the legal reversion of comprised lands be not known to him that has right to redeem, he may summon the hail comprisers to compare at any term, at the parish kirk where the lands ly, or at St Geill's kirk in Edinburgh, to receive their sums contained in their comprisings; and if they compare not and produce their comprisings, whereby their sums may be known to

him that used the order of redemption, he may consign such sums as he can get knowledge of; and, at the pursuing of a declarator of redemption, the comprisers will be forced to produce the hail comprisings, whereby the sums therein contained may be known, and then the user of the order of redemption will get declarator of redemption by paying or consigning the sums contained in the comprisings produced.

*Page 207.*

---

1631. *March 2.* DAVID MURRAY of HALMYRE *against* The LORD YESTER.

IN the improbation of the executions of a horning, if the messenger be lawfully summoned, and compears not to design the witnesses contained in the executions, or, if the messenger be dead,—the defender of the improbation may design the witnesses upon his own peril.

*Page 87.*

---

1631 [or 1630.] *March 8.* The LAIRD of CLACKMANNAN *against* The LAIRD of ALLARDYCE.

THE Laird of Clackmannan is infest in an annualrent of 600 merks, forth of all and hail the lands and barony of Bonnymoon, or any part thereof, lying within the parish of Menmure: He craves poinding of the ground. Compears the Laird of Allardyce, and alleges, No poinding of certain rouns wherein he stands infest by comprising; because the pursuer is only infest and seased in the lands and barony of Bonnymoon. But so it is, that the granter of Clackmannan's infestment has no such barony called the barony of Bonnymoon; but the true denomination of the granter's barony is called the barony of Menmure; so the pursuer can have no poinding but of the lands of Bonnymoon, and no farther can his infestment be extended. To the which it was replied, That the said denomination cannot vitiate the infestment, *cum constat de subjecto*; and that the granter of the annualrent has no other barony lying within the parish of Menmure; as also, his seasing is taken at the place of Bonnymoon, which is the place designed for the seasing of the barony of Menmure. The Lords repelled the exception in respect of the reply, except the defender will allege that the Laird of Bonnymoon had another place designed in his infestment, to take seasing of his barony of Bonnymoon nor at the place of Bonnymoon.

*Page 106.*

---

1631. *March 8.* The LAIRD of CLACKMANNAN *against* FAIRWEATHER.

THE Laird of Clackmannan, being infest in an annualrent out of the barony of Bonnymoon, pursues Fairweather, occupier of a toun of the said barony, for poinding of the ground. It is alleged for the defender, That his ground could not be poinded, because he stood infest in the property of the said toun. It was replied, That, notwithstanding of his infestment, yet he had set