

nally, as they should think fit: considering that, albeit there was never any such practice where the writs were not produced, yet, *ad publicam vindictam*, and to deter others who might be emboldened, upon that ground, to forge false writs, thinking to be free by abstracting the same *dolose*, and of purpose: the Lords found it necessary that some exemplary punishment should be inflicted, the case being of so universal importance; and that, by such contrivances, the greatest fortunes and estates in the country could not be in security.

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1670. *January 28.* COLONEL HURRY *against* The RELICT and BAIRNS of JOHN GRAHAME.

IN a declarator pursued at Colonel Hurry's instance, as donatar to the escheat of John Grahame, whose gift was granted upon an Act of Adjournal, declaring him fugitive for the crime of treason; for which he was charged to underly the law by a herald and by sound of trumpet; which act did ordain him to be denounced rebel, and his whole goods to be escheat to the King's use: It was ALLEGED, there could be no declarator upon the Act of Adjournal, unless the rebel had been likewise lawfully denounced; and the executions of the letters produced were but extracts, and not stamped. It was REPLIED, That the Act of Adjournal *per se* was sufficient, and albeit the executions were not stamped; which was only necessary for executions for civil debts: yet in cases of treason, where the executions by heralds and sound of trumpets have so great and public solemnities, the omission of affixing the stamp, by the herald, could not prejudice the King nor his donatar.

The Lords, before answer to the first allegiance, having considered the Act of Adjournal, which did ordain him to be denounced, and his whole goods to be escheat, did ordain the pursuer's procurators to produce any practicks that could be found for attestations; or any Act of Adjournal, or out of the register of the Exchequer, to prove the custom of granting escheats, upon the simple Act of Adjournal, without denunciation. And as to the second, did ordain the principal letters of horning to be produced before answer.

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1670. *February 1.* AGNES SIMPSON *against* JAMES WATSON.

THE said Agnes being infeft in annualrent of £40, *in anno* 1649; and having obtained decret for poinding of the ground, *in anno* 1657: In a suspension of multiplepoinding, raised by the tenants, wherein Watson was lawfully summoned, but not compearing, the said Agnes was ordained to be answered and obeyed. Thereafter, *in anno* 1668, there was a new suspension of double poinding, raised in name of the same tenants, wherein Watson did compear and produce a public infeftment upon a comprising, *in anno* 1653, and offered to prove possession conform; and thereupon craved to be preferred to the said Agnes, whose infeftment was base, and not clad with possession until the year 1657.