

1620. July 26.

Jo. HAMILTON against Lady PITTENWEEM.

Jo. HAMILTON of Langhirdiaston, purusing for registration of a bond, where-  
by many gentlemen of the \_\_\_\_\_ of \_\_\_\_\_, were bound to restore  
to the Lady Pittenweem a gold chenzie, or the price of 2000 merks; it was  
*excepted*, That, albeit the bond was so conceived, yet the chenzie was in effect  
borrowed to lay in pledge to the Earl of Caithness for sixteen chalders of meal,  
which being thereafter paid, the chenzie was delivered back to the said Lady  
Pittenweem, which they offered to prove by famous witnesses, which was found  
relevant by the Lord Chancellor, Carnegie, advocate, Lauderdale Clerk of Re-  
gister, and most part of the rest, upon pretext, that lately the payment of  
sixteen chalders of victual was sustained to be proven by witnesses, in conten-  
tation of a bond given to that effect betwixt Sir C. Home of Manderston and  
Sir John of Huttonhall. This was done 26th July 1620. My Lord of Craig-  
ton and I, with a few others, were of the contrary opinion.

*Fol. Dic. v. 2. p. 224. Haddington, MS. No 2592.*

No 135.  
Found in con-  
formity with  
the above.

1622. November 15.

M'GILL against FORRET.

IN an action betwixt M'Gill, relict of \_\_\_\_\_ and Forret, the LORDS found  
that the payment of 100 merks, addebted by a bond in writ, might not be  
proved by witnesses, and that the act of Session, ordaining that sums within  
L. 100 might be proved by witnesses, was to be understood when the debt was  
not grounded upon writ.

*Fol. Dic. v. 2. p. 223. Haddington, MS. No 2668.*

No 136,

1623. March 29.

L. SEMPLE against SOMERVILLE.

THE charger, by his ticket in May 1622, subscribed with his hand, conti-  
nued the principal sum until Whitsunday 1625, being 1110 merks, the sus-  
pender paying termly the annualrent. In the mean time, he offers to prove, by  
witnesses *exceptione majores*, payment, and real numeration of the annual of  
the bygone terms. Finds the reasons relevant to be proved by witnesses *excep-  
tione majores*. *Nota*, The ticket bears only principal and expenses.

Clerk, Durie.

*Fol. Dic. v. 2. p. 223. Nicolson, MS. No 464. p. 321.*

No 137  
Payment of  
annualrents  
provable by  
witnesses.