

1679. Yet a contract is very favourable where marriage follows; Dury, 4th Dec. 1629, *Graham*. *Vol. I. Page 104.*

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1680. *June 24.* The COMMISSARY of PEEBLES *against* a BAILIE of REGALITY.

THERE was a competition betwixt the Commissary of Peebles and a Bishop's Bailie of a Regality there, which of them was most competent judge to a slander of calling one a thief. ALLEGED for the Bailie of Regality,—That a regality had power of repledgiation from all other courts, whether in matters civil or criminal; and so the *curia Christianitatis* should not have meddled to judge here; especially he being a churchman's bailie, and so as capable to judge on scandal as the Official or Commissary. This went to the Lords' answer; but it was the general opinion, that the Commissary was more competent, especially being an ecclesiastic regality, who do not so properly repledge, but only sit and concur with the other judge. *Vol. I. Page 104.*

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1680. *June 25.* AGNES CAMPBELL and ANDREW ANDERSON, her Husband, *against* PATRICK RAMSAY and JOHN REID.

AGNES Campbell, relict of Andrew Anderson, printer to his Majesty, having charged Patrick Ramsay and John Reid, upon their bonds, to return and serve her:

The Lords found, by the agreement betwixt the parties, the suspenders could not set up a printing-house of their own, and fulfil likewise the obligations of the said agreement; unless the suspenders will offer to prove it was so communed and agreed upon, that the suspenders might, notwithstanding of the fore-said obligation, go loose, or set up a printing-house of their own; which the Lords find relevant to be proven by the charger's oath; and that she be examined in presence of any persons the suspenders shall bring thither: but would not take a probation contrary to the written agreement; though by privy councillors, who, on her soliciting them, heard her declare those that were apprentices were free to set up for themselves. *Vol. I. Page 104.*

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1680. *June 25.* PATRICK YOUNG *against* The CREDITORS of GAVIN HAMILTON of RAPLOCH.

PATRICK Young, as donatar to the single and liferent escheat of Gavin Hamilton of Raploch, granted to him by the Duke of Hamilton as Lord of the Regality within which Raploch dwells and his lands lie, pursues a special declarator. ALLEGED for Raploch's creditors,—That no more can fall under the Lord of Regality's gift of escheat but only the maills and duties of the lands lying within that regality. REPLIED,—His moveables do likewise fall under

this gift, and not only those lying within the bounds of that regality but wheresoever they lay; and particularly the liferent of houses within Edinburgh belonging to his lady, John Bonnar's relict, and now appertaining to Raploch *jure mariti*.

The Lords found *quod bona mobilia sequuntur personam*, and that not only his moveables then lying within the regality fell under the escheat and gift by the Lord of the Regality, but also all his moveables throughout the whole kingdom, and even his *jus mariti*. Which was judged an interlocutor very prejudicial to his Majesty's interest, and extending the Lords of Regality their rights to single escheats too far, seeing there should be no more in a Lord of Regality's power to dispose of but what lies within his own regality; and no person ought to grant gifts of escheats to extend farther than the bounds of their own jurisdiction. Yet Hope, *Min. Pr. tit. 8*, affirms they have right to single escheats. *Vol. I. Page 104.*

1680. *June 26.*

EDMISTON *against* EDMISTON.

In a case Edmiston of Dunraith against Mr John Edmiston, the Lords reduced a 7000 merks bond, as never being a delivered evident, but consigned on condition; and ordained them to count *ab ovo* without respect to the bond.

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1680. *June 26.* LORD MONTGOMERY *against* The LAIRD of BLAIR.

LORD Montgomery, as superior, craved a year's rent of the adjudger. It was ALLEGED, The adjudication was before the 18th Act of Parliament 1669, ordaining adjudgers to pay a year's rent; and therefore it must be presumed not to be due before, seeing laws are only made to regulate future cases; and it was found *casus de industria omissus* in the Act of Parliament 1621, as Balmanno observes, *voce* Adjudications.

The Lords found a year's rent not due by adjudgers before the Act 1669.

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1679 and 1680. MARGARET JOHNSTON, Lady Bogie, *against* The CREDITORS of Sir JOHN WEYMES of BOGIE.

1679. *January 17.*—SIR John Weymes of Bogie having deceased in the tolbooth of Edinburgh; upon a bill given in by Margaret Johnston, (Warriston's daughter,) his lady, the Lords ordained the factors for the creditors to pay out of his estate 500 merks for his funerals; as also, to pay Patrick Vanse's dues as keeper, the time he was in prison. *Vide infra, 25th Feb. 1679.*

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