

1736. *July 16.* NICOL *against* GROSETT.

No. 7.

RENOUNCIATION by a tenant 40 days before Whitsunday sustained, though not before Candlemas, which was said to be the custom of the Burgh, but no evidence of that custom by judicial proceedings given.—*N.B.* All agreed, that as to the form of warning, the custom, and not Queen Mary's act, is the rule; but as to the time, several doubted if the act was not the rule. See REMOVING.

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1737. *January 26.*

MERCHANT COMPANY of EDINBURGH *against* ROO.

No 8.

MERCHANTS in Burgh cannot retail unfreemens goods as their own; and therefore the Dean of Guild of Edinburgh having sustained such a complaint, to infer the pains and penalties contained in the *formula* of the burgh oath; the Lords, upon a bill of advocacy, refused to pass the bill, but remitted with instructions that the pursuer specially qualify the fact; *2do*, that the proof be before answer; *3tio*, that the defender be allowed procurators.

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1738. *February 1.* MAGISTRATES of JEDBURGH, *Competing.*

No. 9.

ELEVEN Councillors of 25 proceeding to an election on an unusual day, when six were out of town, the other eight withdrawing from them; and thereafter, in conjunction with the other six, after due notice given to the whole, proceeding to elect, found not to fall under the act 7th Geo. II.; so as either to void the new election made by the 14, or to subject the eight who withdrew to the penalties of that act.

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1738. *December 13.*

GORDON, *Supplicant, against* BAILIES of ANNAN.

No. 10.

AN heir served in special to a tenement within Burgh, took a precept out of the Chancery to charge the Bailies to infest him, which they disobeyed; and then he applied to the Ordinary on the bills, for a warrant to the Director of Chancery to issue new precepts to some other person to infest him in