

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 2568.

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
probable by
witnesses.