

his decease, did any deed, or expressed any contrary act, to recal that bond, or to derogate thereto, or altered or changed his will thereanent.

*Act. Stuart. Alt. ——. Gibson, Clerk. Vid. 22d January 1624, Lermonth against Alexander; 25th November 1631, Lauder against Dowglas.*

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1631. *March 9. The LADY HUTTON-HALL against The LAIRD of MORISTON and The LAIRD of TOUCH.*

LA. Hutton-hall being liferentrix of Hutton-hall after decease of her husband, who died before Martinmas, and so thereby had right to the half of that year's duty, and wherein she was preferred to the Laids of Moriston and Touch, who had comprised these lands from her husband; as is decided, March 8, 1622 years, in the Lady Corsindae's Practique; she craving that term's duty, as the land was worth, and as other lands of the like quality in that part of the country actually paid, seeing they were never set, past memory of man, for farm, but ever laboured in mainsing by the heritor thereof, until the time that they were lately set for farm by their defender's comprisers: and they alleging that they could pay no greater duties to her for this term but the equal half of that quantity for which they set the lands that year; seeing they set the same for as great quantity as they could get for the same, and could get no more; and no reason that they should pay more than they got;—the Lords nevertheless sustained the summons for the half of that duty which should be proven, others, the like lands, paid; but declared, that they reserved to themselves to consider, in the advising of the process, what differences should be found betwixt the quantity to be proven and the quantity for the which the land was set by the compriser, and which now is offered by them to the pursuer, that they might know thereby if the compriser had set the lands near to the avail or not; and, according thereto, they would thereafter modify and discern.

*Act. Stuart and Mowat. Alt. Nicolson and Craig. Gibson, Clerk. Vid. 1st February 1631, Blauns against Winraham; 15th January 1624, Viscount of Annandale; 21st January 1629, La. Aiton.*

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1631. *July 6. ————— against The BAILIES of PERTH.*

THE magistrates being convened by a creditor, for payment of the debt, because, the debtor being incarcerated in their tolbooth, they suffered him to escape; and the defenders alleging that the rebel brake the tolbooth in the night, and came out at the roof of the house, and so escaped, without the knowledge, consent, or accession of the magistrates, or any fault on their part; the house being a sufficient ward-house, where there was no infirmity or defect, and being sufficiently timbered and slated in the roof; so that, therefore, it were hard to find the magistrates liable in the debt, who had not failed;—this allegiance