

him that used the order of redemption, he may consign such sums as he can get knowledge of; and, at the pursuing of a declarator of redemption, the comprisers will be forced to produce the hail comprisings, whereby the sums therein contained may be known, and then the user of the order of redemption will get declarator of redemption by paying or consigning the sums contained in the comprisings produced.

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1631. *March 2.* DAVID MURRAY of HALMYRE *against* The LORD YESTER.

IN the improbation of the executions of a horning, if the messenger be lawfully summoned, and compears not to design the witnesses contained in the executions, or, if the messenger be dead,—the defender of the improbation may design the witnesses upon his own peril.

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1631 [or 1630.] *March 8.* The LAIRD of CLACKMANNAN *against* The LAIRD of ALLARDYCE.

THE Laird of Clackmannan is infest in an annualrent of 600 merks, forth of all and hail the lands and barony of Bonnymoon, or any part thereof, lying within the parish of Menmure: He craves poinding of the ground. Compears the Laird of Allardyce, and alleges, No poinding of certain rouns wherein he stands infest by comprising; because the pursuer is only infest and seased in the lands and barony of Bonnymoon. But so it is, that the granter of Clackmannan's infestment has no such barony called the barony of Bonnymoon; but the true denomination of the granter's barony is called the barony of Menmure; so the pursuer can have no poinding but of the lands of Bonnymoon, and no farther can his infestment be extended. To the which it was replied, That the said denomination cannot vitiate the infestment, *cum constat de subjecto*; and that the granter of the annualrent has no other barony lying within the parish of Menmure; as also, his seasing is taken at the place of Bonnymoon, which is the place designed for the seasing of the barony of Menmure. The Lords repelled the exception in respect of the reply, except the defender will allege that the Laird of Bonnymoon had another place designed in his infestment, to take seasing of his barony of Bonnymoon nor at the place of Bonnymoon.

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1631. *March 8.* The LAIRD of CLACKMANNAN *against* FAIRWEATHER.

THE Laird of Clackmannan, being infest in an annualrent out of the barony of Bonnymoon, pursues Fairweather, occupier of a toun of the said barony, for poinding of the ground. It is alleged for the defender, That his ground could not be poinded, because he stood infest in the property of the said toun. It was replied, That, notwithstanding of his infestment, yet he had set