

1686. *February 5.* LORD BARGENIE *against* SIR JOHN DALRYMPLE.

IN my Lord Bargenie's case with Sir John Dalrymple, anent the price of Castle-Kennedy; the Lords found, that Bargenie's two receipts, extending to 1400 merks, were not to be presumed to have been allowed or discounted to Sir John out of the fore-end of the price of Castle-Kennedy bought by him from Bargenie; though there had been two or three countings betwixt them, posterior to the dates of these tickets, and new bonds granted; because they were yet in Sir John's hands unretired, and they would not have been left there if they had been discounted.

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1686. *February 6.* PATRICK LYON *against* JOHN STRACHAN.

JOHN Strachan, writer to the Signet, having reflected on my Lord Forret, as if he had not done him justice in a cause depending before him, against one Pearson; as also, in bills and informations to the Lords, having reflected on Mr Patrick Lyon, advocate; there is a complaint of defamation given in against him, for saying that Mr Patrick attempted to assassinate him; and nothing being so dear to an advocate as his reputation, next to his conscience, he craved he might either prove it, or else be punished for the slander.

The Lords finding the injury proven *scripto*, and that he declared there were no witnesses present when Mr Patrick threatened him, they sent him to prison, to lie there till they should consider what further punishment to inflict on him. And, if he had not submitted and craved pardon, they were resolved to deprive him: however, he was liberated on a sharp rebuke.

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1685 and 1686. [SIR ALEXANDER HOME of RENTON *against* SIR PATRICK HOME, his Brother.

1685. *November 21.*—SIR Alexander Home of Renton pursues Sir Patrick Home, his brother, for count and reckoning of what debts he has defrayed by the tack set to him by their father, for paying those debts, and yet they were as great now as at the father's death. And the rental of the lands being admitted to Sir Alexander's probation, he had got some to swear on a very great rental, 3000 merks by year more than it was set at or paid, the time of his father's death. Sir Patrick mainly OBJECTED against one Dickson, who, in 1677, being examined, had deponed he knew not the rent; but, in 1683, being re-examined, is very clear on every article: and he urged sundry contradictions in the two oaths to infer him perjured, and that *standum est priori examini* in this competition, there being *jus quæsitum* to Sir Patrick by it; and that many famous lawyers thought neither of the two oaths ought to be credited; *l. 16 D. de testibus.*

ANSWERED,—He might remember more in 1683 than in 1677, (yet the one is recenter than the other,) and he might be more fully examined the last time. *2do*, Many deponed on a rental twenty or thirty years ago, which could not in-