

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 burghess 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

No. 10. place of the Bailies, which the Lords refused, because of the act James VI., Parl. I, that sasines within Burgh be given by the Bailies and common clerk; but upon a new petition, they granted letters of horning against the Bailies to infest him. See SASINE.

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1739. July. KING'S ADVOCATE *against* SMITH in Annan.

No. 11.

ONE's being the son of a burghess, having tenements in Burgh, enjoying the privileges as a burghess, and being chosen one of the Councillors of the Burgh, no sufficient evidence of his being a burghess, to increase the penalty of a clandestine marriage.

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1740. Feb. 2, 22. LORD BRACO *against* TOWN of BANFF.

No. 12.

The Magistrates of a Burgh having received resignation *in favorem*, and refusing to infest, were ordained to answer a complaint summarily, and upon their answers it appearing that they had received resignation, horning was granted to charge them to receive the purchaser; though the Lords doubted, if they had not received the resignation, whether summary horning could have been granted. See No. 10..

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1740. December 12. ELECTION of HADDINGTON.

No. 13.

THE Council of Haddington having made a sort of double election at Michaelmas 1739, and the minority having raised a process for declaring their own, and voiding the election made by the majority, which they have kept still in dependance, and some of them being still members of Council, (viz. eight,) though the rest were none of the Council in possession for the year 1740; yet at Michaelmas 1740, they all met at the ordinary place with the rest of the Council in possession, and these eight with their adherents chose a different set of Magistrates from those chosen by the Council in possession, that is the majority of them; yet these eight were found not to be within the act 7th Geo. II., nor to have incurred the penalties in that act.