

1630. *July 23.* LORD PITSLIGO *against* ALEXANDER DAVIDSON.

THERE was a reduction, pursued by the Lord Pitsligo against Alexander Davidson, of a retour, whereby Alexander was served general heir to William Forbes of Pitsligo, the pursuer's grand-uncle, upon this reason, that the defender was bastard, his father and mother never having been lawfully married together. It being alleged, That this being *quæstio natalium*, it should be remitted *ad judicem Christianitatis*, was repelled by the Lords.

*Page 29.*

---

1630. *November 26.* The GOODMAN of NEW-LISTON *against* The HERITORS of OLD-LISTON.

IN an improbation, pursued by the Goodman of New-Liston against a number of the heritors of the barony of Old-Liston, it was alleged, That one of the defenders, whom the pursuer had summoned as apparent heir to one of his predecessors, was dead out of the country. For proving, the defender craved to have terms assigned to him. The pursuer replied, It, being a dilator, ought to be proven *instanter*. The Lords would not give him terms to prove it; but found that, at any time betwixt and the last diet for the production assigned to the rest of the defenders, if he proved it, no certification should be granted for the writs granted to him and his predecessors; otherwise, if he proved it not betwixt and then, to produce at the last diet, with the rest.

*Page 168.*

---

1630. *December 2.* LORD YESTER *against* JAMES TWEEDIE of DRUMMELZEAR.

IN a declarator of non-entry, pursued by the Lord Yester against James Tweedie of Drummelzear, it was alleged for the defender, that the pursuer could not allege the lands libelled to be in non-entry, because he had comprised the same himself from the defender's father, since whose decease he craved the non-entry; and so the lands being full in his own person, who had comprised them, could not be declared to have been in non-entry ever since the death of him from whom he had comprised them. The Lords repelled the allegiance, and found the pursuer might very well seek the lands to be declared in non-entry, although he stood infest in them by virtue of his comprising; for, if the comprising were not good, he might clothe himself with the other right.

*Page 224.*

---

1628, *Feb. 2*; and 1630, *Dec. 9.* JOHN SMITH *against* JOHN GRAY.

JOHN Smith pursued the same Gray (the defender in the case, Adie against Gray, 1628, January 24,) as universal intromittor, at least executor to his