

1634. *February 11.* JAMES ROLLOCK *against* The LADY ATHOLE and CAPTAIN ROLLOCK.

THE Lady Athole, and Captain Rollock her spouse, are charged, by James Rollock, to make payment to him of the sum of £1000, contained in a registrate bond. She suspends, seeing the sum was borrowed to her from umquhile _____, and that the bond was blank when she delivered the same to _____, and that this charger had only inserted his own name in the bond, whereas the money pertains to the defunct's husband; whereby his procurator compeared for his interest, and concurred with the suspender, that the monies were due to him, husband of the defunct. It was answered, That the charger received this bond from the defunct, in her lifetime, for onerous causes; and that she not only caused insert his name therein, but also made him assignee to the same; and that she and her husband being separate by consent, he gave unto her the sum of 4000 merks, whereof this was one part, to live upon, and to renounce her conjunct fee. It was answered, That the separation being voluntary, no private contract betwixt them could prejudge the husband of the right of any sums pertaining to his wife undivorced. Which the Lords found relevant, and thereafter suspended the letters.

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1634. *February 13.* EDGAR *against* The EARL of HADDINGTON'S BAILIE.

THE Earl of Haddington's Bailie convicts one Edgar for a bloodwed for wounding a person; who, being charged for an unlaw, suspended, alleging, That he was not lawfully convicted, in so far as he was not convicted by an assize, as use is in such cases; but, the fact being referred to his oath, he refused to give his oath. The Lords found the letters orderly proceeded; because the fact not being capital, but punishable by a pecunial pain, the same might be lawfully referred to his oath.

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1634. *February 15.* The GOODMAN of MUNKTOUNE *against* LORD YESTER.

THE Goodman of Munktoun, having comprised or gotten adjudication of certain lands holden of the Lord Yester, charges the said Lord to enter him thereto. The superior for the entry craves a year's duty of the said lands, extending to £1000. It is answered, That thir lands being feued, before the Act of Parliament, to a vassal for the sum of £24 of feu-duty; and, by the comprising or adjudication, the Goodman of Munktoun having right to no more but to the said feu duty,—he could not, of law, be subject to pay any more to his superior for his entry; and alleges a practique, wherein the like was decided betwixt