

1682. *March 14.* GEORGE SEATON of BARNES *against* The LADY BEARFORD, his Sister.

IN George Seaton of Barnes his petition against the Lady Bearford, his sister, the Lords, after a debate *in præsentia*, refused to give an act declaring the validity of their own extracts under the clerk-register's hand; in regard it was not craved by any warrant from the Irish judges, where the affair was depending, but only by a private party. Yet the noble *senatusconsultum*, or Act of Sederunt, in Latin, made on the 31st day of July 1596, (which is not recorded till the 17th of November 1599,) is very positive that such extracts are as probative as the principal writs, except in case of falsehood and improbation.

Yet Barnes' Irish counsel-at-law ALLEGED,—That Act was only a desire of the Lords of the Session to foreign judicatures, to esteem our extracts as probative; but they saw no answer from other courts granting the same. But they mistake it; for, *1mo*, It is declaratory what is the import and strength of these extracts in our law and custom; and, *2do*, It is petitory, that they may pay them the same deference and respect; else they will not repute what shall come from the clerks of these sovereign courts as authentic. Which was all the certification the Lords could give against coördinate independent courts.

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1682. *March 22.* SKIRVEN, Plumber, *against* JOHN WILKIE, Tailor.

THE Lords, on Pitmedden's report, ordered the comuners and witnesses to the bargain to be examined, if Skirven followed the faith of Thomas Wilkie, the mason, builder of the house, for the price of his lead, or of John Wilkie, the owner of the house; (who had agreed with the mason on a penny for all;) also ordain the condition of the said Thomas Wilkie to be condescended on, if he was then insolvent or not.

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1682. *March 24.* ROBERT STEWART *against* certain MERCHANTS in EDINBURGH.

IN Robert Stewart, factor, his case with some Merchants in Edinburgh, the Lords, on Harcou's report, found the letters orderly proceeded for Robert: but sustained the Merchants' declarator of fraud and circumvention, in taking ten crowns on the same wine from them, more than he took at the same time from Hollanders and other strangers. And admitted it to probation, as *dolus* both *in consilio et re*.

Though we allow not reductions *ob læsionem ultra dimidium justii pretii, ex l. 2 C. de Resc. Vendit.*, yet our law will repress cheating. *Vide 11th Jan. 1682, Bonar and Neilson.*

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