

No. 3.
Found in conformity with the above.

1606. *March.* LORD GAIRLIES *against* MAKULLOCH.

In a removing from salmon fishing, pursued by the Laird of Gairlies against Makulloch, it was alleged, that the defender was infeft in the lands adjacent to the water, with the clause *cum piscationibus in verbis dispositivis* before the *tenendas*; and, by virtue thereof, in possession past memory of man, (it being no coble fishing.) It was replied, that salmon fishings were *regalia*, and required express infeftment, and this fishing was a salmon fishing in water where the sea ebbed and flowed. In respect of the which reply, the Lords repelled the exception.

Fol. Dic. v. 2. p. 360. Haddington MS. No. 1080.

No. 4.

1610. *February 16.* CAMPBELL *against* CAMPBELL.

It was found, in an action of removing pursued by Sir Duncan Campbell, of Glenurchy, *contra* Alexander Campbell, Prior of Ardchatton, that a sasine of a barony, or third part of a barony or Lordship, dispoed to Glenurchy to be holden of the Earl of Argyle, did comprehend salmon fishings, albeit the barony was not holden of the King; specially in respect the sasine bear him to be infeft in the haill fishings, as well upon the sea as fresh waters, which was found to include salmon fishings.

Fol. Dic. v. 2. p. 360. Kerse, MS. fol. 73.

* * Haddington reports this case:

An infeftment of lands *cum piscationibus tam in mari quam aquis dulcibus*, found to be a sufficient right to salmon fishing, albeit it made no mention of salmon fishing, and that the land was holden of the Earl of Argyle.

Haddington MS. No. 1810.

No. 5.

1628. *March 26.* MAXWELL *against* PORTRACK.

AN infeftment of lands from the King, *cum piscationibus in aqua de Nith*, with continual use of fishing salmon in the said water, and debarring others therefrom, was found insufficient to defend against a removing at the instance of one who was infeft in the said salmon fishing *per expressum*.

Fol. Dic. v. 2. p. 360. Durie.

* * This case is No. 1. p. 10617. *voce* POSSESSORY JUDGMENT.

No. 6.

1701. *December 3.* FORBES *against* UDNEY.

THE Lords sustained a party's right to a salmon fishing, though his charter bore only *cum piscariis*, and not *salmonum piscationibus*, and this because of old the word