

S E C T. VIII.

Acts of the Heir proceeding from his Connection with the
Predecessor.1609. Feb. 23. & 1610. Jan. 23. HENRYSON *against* SINCLAIR.

No 53.

In an action of transferring, pursued by James Henryson, as heir to Marion Sinclair, his mother, who was only daughter and heir procreate betwixt Edward Sinclair of Drydane and Margaret Ramsay, his first spouse, daughter to David Ramsay of Bangour, against John Sinclair, his father, who was heir or successor to the said Edward Sinclair, procreated upon Beatrix Renton, his second spouse, which Edward was heir or successor to Sir William Sinclair, his father, party contractor, to hear and see the (contract) matrimonial made betwixt the said Sir John and Edward, his son, on the one part, and the said David Ramsay and his said daughter on the other part, and registered in the official's books of ———, 10th April 1618, whereby Sir John was obliged to infest his said son and future spouse in the most half, at the least the best half of his lands of Lesswood, Piccars, and Drydane; the LORDS found Edward Sinclair to be successor *titulo lucrativo* to Sir John, his father, by accepting the infestment contained in the said contract of marriage.

*Kerse, MS. fol. 141.*1610. November 20. MASTER of BOYD *against* LORD CAMPBELL.

AN apparent heir of ward lands will get modification for his aliment, albeit he be not served heir; but the pursuit of that action will make him heir. In the estimation of the rental, the LORDS will not only consider the yearly duty of mail and farm, but also the entries and grassums which the donatars to the ward have gotten from the friendly tenants, because, in many parts of the country, the grassums are great, and the yearly duty very mean.

Fol. Dic. v. 2. p. 32. Haddington, MS. No 2002.

* * A similar decision was pronounced 12th February 1635, Hepburn *against* Seaton, No 1. p. 381, *voce* ALIMENT.

1612. January 31.

HOME *against* HOME.

IN an action of spuilzie of the teinds of Hounthowood, pursued by George Home of ———, *contra* Alexander Home of Hattonhall, upon a tack acquired

No 55.

No 55. by William Home, his father, to himself and the said George, his son, in fee, and the heirs of the longest liver, for nineteen years, the LORDS found, that George was successor to his father by his tack, and obliged therefore to warrant the defender, to whom their father made right to their teinds before the date of the tack.

Kerse, MS. fol. 141.

No 56. 1622. *March 25.* LORD SEMPLE *against* HAY.

AN apparent heir of a nobleman assuming his predecessor's titles is not a behaviour.

Fol. Dic. v. 2. p. 32. Erskine, MS.

* * * Auchinleck reports this case.

1633. *December 21.*—JOHN HAY of Tourlands pursues my Lord Semple as heir to his father, in so far as after his father's decease, he behaved himself as heir, in riding in Parliament and for succeeding to his father's honours; which was repelled, seeing Semple was in fee of the lands before his father's decease, reserving only his father's liferent. This interlocutor was pronounced 20th March 1623, and a bill given in for an extract thereof at Semple's instance 21st December 1633.

Clerk, *Hay.*

Auchinleck, MS. p. 7.

No 57. 1627. *January 24.* GLENKINDIE *against* CRAWFORD.

THE passive title was not sustained upon a person having in a writ designed himself as heir, and professed himself to be heir, not being *in re hæreditaria*.

Fol. Dic. v. 2. p. 23. Durie.

* * * This case is No 25. p. 6869, *voce* INDUCIAE LEGALES.

* * * The same was found 8th July 1628, Dunbar against Leslie, No 15. p. 5392; *voce* HEIRSHIP MOVEABLES.