1622. *November* 30. SHERRIFF FORREST *against* FRANCIS STEWART.

No 57. Found as above.

THE LORDS found, that no intimation, except ane legal and formal intimation by the aſſignee to the ſubtackſmen, who were obliged in payment of a duty *sub clausula irritanti*, could prejudge the tackſmen of an offer made to the cedent, or band him to offer to the aſſignee; *ad hunc effectum* to make the offer null, and to make the clauſe irritant to be committed. *Memorandum*, to make intimation in this clauſe we offered to prove inhibition, poſſeſſion, and ſentence, againſt Sir John (Murray) in other teinds of the ſame parochin, which fell within the compaſs of the aſſignation, and yet repelled.

Kerſe, MS. fol. 55.

1624. *January* 21. LORD ELPHINGSTON *against* ORD.

No 58.

AN aſſignee to a woman's liferent, getting decree of removing againſt the tenants, was found preferable to prior aſſignees, whoſe aſſignations were not intimated.

Fol. Dic. v. 1. *p.* 65.*

1624. *January* 27. STEVINSON *against* L. CRAIGMILLER.

No 59. Found that a a ratification of an aſſignation by the debtor was not equivalent to intimation.

IN the action Stevinſon againſt Craigmiller, whereof mention is made in the other proceſs, p. 836. the LORDS found, that a ratification made by Patrick Edgar, who was debtor to Clement, of the aſſignation made by Clement to Craigmiller of the debt, and decreet thereupon, recovered by Clement againſt Patrick, was not equivalent to an intimation, and was not as ſufficient, as if the ſame had been intimate by Craigmiller to Patrick the debtor; and therefore found the compriſing deduced by Craigmiller againſt Patrick, after Clement's deceaſe, who was his cedent, to be null, notwithſtanding of the ratification foreſaid; and albeit the ſaid ratification was made by Patrick in Clement's lifetime, before his deceaſe: for the LORDS found, that intimations ought to be legally made by a notary, before witneſſes, which, as it was moſt ſolemn and requiſite ſo to be done, ſo theſe were the moſt probable means to eſchew falſet; for being otherways done, by ſuch privy ratifications, being deeds only done amongſt the parties ſelves, might have the greater ſuſpicion of falſet or ſimulation, and had the more difficult means of trial and diſcovery of the ſame.

Fol. Dic. v. 1. *p.* 64. *Durie, p.* 102.

* Lord Kames gives this caſe as from Nicolſon. The Editor has not found any one under the above names, of that import. There are two caſes in Nicolſon's collection between theſe parties, which will appear in their proper places; neither of them regards the above ſubject. *See* General Liſt of Names.