

bot of Cambuskenneth *per Alexandrum Dominum Stirling*;—alleged, Never clothed with possession, and that the said Alexander never had right to these lands. Sustained notwithstanding. *Page 217.*

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1626. *July 6.* GRAHAM of CLAVERHOUSE *against* ALEXANDER LAWDER of NEWBIGGING.

IN an action of removing between Graham of Claverhouse and Alexander Lawder of Newbigging, The Bishop of Ross desiring to be admitted for his interest, produced for instruction thereof a contract between Alexander Lawder and him, whereby the said Alexander was bound to infest him in his lands. The Lords found, that it, being only a personal bond, could furnish him no interest in a real right, and therefore would not admit him, unless he produced his sasine following upon the contract. *Page 180.*

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1626. *July 11.*

N. being constituted assignee by M. to a certain sum, chargeth the debtor therefore. Excepted, The charge was null; because the assignation was posterior to the charge, and so *filius ante patrem*. Replied, Ought to be repelled, in respect of the concurrence of the cedent. Which was sustained.

*Page 19.*

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1626. *July 11.* MACKCULLOCH *against* MACKCULLOCH.

IN a declarator of bastardy between Mackculloch and Mackculloch, the summons concluding likewise that the King and his donator should be declared to be *ultimus hæres* to the defender Mackculloch: Excepted, That there was an heir served to him. Replied, Not relevant, unless he had been retoured before his death also. The Lords found, that howbeit the service alone would give no action to a man to pursue by virtue thereof, yet, in this case, it might furnish an exception to the defender, while it were taken away *prout de jure*.

*Page 29.*

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1626. *July 12.* WILLIAM DOUGLAS of IVELY, and CRANSTON of MORESTON, SUBVASSALS to JOHN STUART in the LANDS of COLDINGHAM, *against* The EARL of HOME.

ANY sub-vassal infest in the property of lands, though base, may remove all impediments which may hinder him to brook, and, consequently, may reduce any other infestments granted to any whomsoever. *Page 349.*