

twixt this Ker and some others of the disponder's creditors, the question was, If an infestment, granted for several sums of money, and made public as to some of the sums, if that was a public infestment.

The Lords found that an infestment being indivisible *quid*, could not *ex parte* be public, and *ex parte* not ; and therefore found the same public.

*Act.* Sinclar.      *Alt.* Lermont.      *Referente Domino Advocato.*

*Advocates' MS. folio 59.*

1668. *January 20.*      LORD LYON *against* \_\_\_\_\_.

THERE was a comprising led at my Lord Lyon's instance against one Johnston, as lawfully charged to enter heir to his father : and he dying before the Lyon was infest upon his comprising, another serves himself heir to him who was last infest, and procures himself infest ; and both contending for preference, it was found that the person who was lawfully charged to enter heir, and comprised from, was so denuded by that diligence, that he who served himself heir, and was infest, could not be preferred to him who had comprised, though not infest till after the other's infestment was expedite.

*Act.* Maxwell.      *Alt.* Lockhart.      *Referente Advocato.*

*Advocates' MS. folio 59.*

1668. *January 24.*      BOWAR *against* GRAHAME, minister at Inneraritie.

THEY found that the relict of the deceased minister might convene the entrant or the heritors for the price of the manse, either built or repaired ; notwithstanding the act of Parliament 1661 be expressed that the heritors ought to be bound and liable for that. It is true, before that act of Parliament entrants were infalibly liable to the relict or heritors ; and that act does not exclude the entrants from being liable, though it declares the heritors to be bound, and makes no mention of entrant ministers.

*Act.* Dinmuire.      *Alt.* Thoires.      *Referente D. Staires.*

*Advocates' MS. folio 59.*

1668. *February 4.*

ONE Mr. Wm. Somervell being condemned in a criminal court for usury, and having raised a reduction of the verdict of the assize, before the Lords of Session,