

1682. *March 8.* The MARQUIS of QUEENSBERRY *against* STUART.

MY Lord Queensberry having intented reduction and improbation, and obtained certification as superior, against Morton, a little time after Achinbyne had apprised from him; and one Sharp having apprised from Morton after the certification, and the superior having bought in the first apprising;—the second appriser contended, That he ought to be allowed to redeem the first. Alleged for my Lord Queensberry: That the certification in his improbation did as effectually denude the vassal, as if he had resigned *ad remanentiam*, or disponed the legal reversion of the first apprising before the second was led; and so Sharp had no interest to redeem the first apprising, seeing the legal was not carried by his apprising; yea, though the superior had not acquired the first apprising, he, by virtue of his certification, would have been preferred to redeem it, and would have excluded the second appriser. The Lords sustained the allegiance made for Queensberry.

Page 65, No. 274.

1682. *March 10.* JAMES HENDERSON and his SPOUSE *against* Young SAUGH-
TONHALL and his SPOUSE.

FOUND that a wife had right to a terce, though not reserved in her contract, since she was not thereby, or otherwise, expressly excluded from it. *Vide* No. 666, Craigleith *against* Prestongrange, 23d November 1681.

Page 190, No. 669.

1682. *November.* ——— *against* My LORD CARDROSS.

A CREDITOR may adjudge any part of his debtor's lands he thinks fit; and the Lords of Session have not power, by the Act of Parliament, to determine localities at their option. And the Lords found the debtor obliged to produce a rental of his whole lands, in case he stopt an adjudication of the whole estate.

Page 1, No. 4.

1682. *November.* The LAIRD of COLLEIN *against* HUGH KENNEDY.

COLLEIN, being resting 1000 merks to Kennedy of ———, he drew a bond for the money, payable to Kennedy and his wife, &c. and intrusted the same to Kilkerran, to be delivered by him to the creditor: afterwards, upon Kilkerran's representing to Collein that Kennedy desired rather to have a blank bond, Collein gave him a bond blank in the creditor's name, forgetting to retire the former: after payment of the last bond, Kilkerran procured from Kennedy an assignation to the first; Kennedy being pursued by Collein for damage and