

1766. *January 17.* DUN *against* LORD GALLOWAY.

[*Fac. Coll. No. IV. p. 247.*]

DUN made up titles to his grandfather's estate by an adjudication upon his own bond, and insisted in a process of maills and duties against the tenants. Lord Galloway appeared, and produced an infertment in the lands, proceeding upon a disposition from Dun's grandfather, but did not produce the adjudication (disposition) which was the warrant of the sasine. The sasine, however, with the possession, was found to give him the benefit of a possessory judgment. Then Dun insisted in a process of reduction. Lord Galloway objected to this title. Lord Pitfour said that there were two things necessary; *first*, That the propinquity should be proved, which was not necessary in this case, as it was acknowledged; *2do*, That it should be shown that the lands belonged to the predecessor. In this last the pursuer's title was lame, nor was it sufficient for him to lay hold of the defender's title, and allege that it proved his grandfather was proprietor; for, in the *first* place, It proves no such thing, because Lord Galloway might have taken a disposition and infertment from him although he had no right at all to the lands; and *2do*, A pursuer must produce some deed or writing of his own in order to found his title upon, and not lay hold upon any deed in favour of the defender, or any acknowledgment or admission of his; and therefore Dun must produce some deed in favour of his grandfather, showing that he was proprietor of the lands, and not insist upon the deed produced for the defender, which only shows that the defender got a right to these lands from the granter, not that he had any right himself. And this was the unanimous opinion of the Court.

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1766. *January 21.* PITTENWEEM ELECTION PROCESS.

A PART of the Council of this burgh pursued a reduction of the election of Magistrates and Council at last Michaelmas, as brought about by bribery and corruption, and the citation was given at the council-table when the Council was assembled.

The majority of the Court found that this was not a valid citation; because, though such a citation was proper in any action against the community, as for payment of a bond granted by the community, it was not proper in an action at the instance of one part of the Council for reduction of the election of the whole; but every one of the defenders in such a case, as having a particular interest, must be particularly cited.