

No. 82. donatars; the adjudication devolved by succession to the heirs of Jean; so that even upon the supposition that Alexander Waddel should be retrocessed, it could not be done till the pursuer had made up her titles to her mother for that purpose. The adjudication being accordingly fully vested in the pursuer, a reconveyance to James Waddel was unnecessary; for as she was in the radical right, the bare consent of Waddel, who had the interest, was a sufficient mandate for insisting in the sale. The present case was precisely similar to one which had been frequently stated: When a person, for instance, vested in the feudal title, but who had no right to the subject, disposed it with the consent of the true heir; which always had been held a valid conveyance.

The Lords adhered to the interlocutor of the Lord Ordinary.

Lord Ordinary, *Kames*.  
Clerk, *Gibson*.

For Waddel, *A. Wight*.  
For Laurie, *D. Dalrymple*.

*Fac. Coll. No. 68. p. 202.*

1771. *December 13.*

ADAM WILSON, Merchant in Dundee, and Others, *against* DAVID JOBSON, Writer, in Dundee.

No. 83. An action sustained at the instance of a majority of private individuals, who had united themselves for religious purposes into a society called the Antiburger Associate Congregation of Dundee.

\* \* This case is No. 5. p. 14555. *voce* SOCIETY.

1774. *November 29.*

MAJOR RALPH DUNDAS *against* WILLIAM MURRAY of Touchadam, and Others.

No. 84.

A very remote substitute in a tailzie is entitled, at common law, to pursue a declarator of irritancy against the heir in possession.

\* \* This case is No. 48. p. 15430. *voce* TAILZIE.

1779. *February 4.*

GRAHAM *against* GRAHAM.

No. 85.

A party having made up a title by general service, as heir of tailzie to his brother, (the heir last infert,) brought a reduction of a tack and removing from the lands on various grounds. Objected by the defender, The pursuer has no title to carry on this action; the property of the lands under lease is still *in*