

1560. *December 19.* JOHN CHALMER *against* AGNES LUMSDEN.

No 53.
The Lords of
Session are
sometimes
judges to
spiritual
causes.

THE Lordis of Counsall hes power to cognosce and decide upon spiritual causis, gif the consistorie, or ecclesiastical jurisdiction ceisis, or be stopt be civil wars or utherways.

Fol. Dic. v. 1. p. 495. Balfour, No 10. p. 269.

No 54. 1563. *July 3.* The BISHOP of ABERDEEN *against* JOHN OGILVIE.

THE Lordis of Sessioun allanerlie, and na uther judge, ar jugeis competent to actiounis of reducioun of infestmentis, evidentis, or sasines, and of all actiounis of heritage betwix all the liegis of this realme, spiritual or temporal, and to all obligatiounis and contractis followand as accessory thairupon; except special provisioun be maid in the infestment, that in cais of contraventioun of ony heid or clause contenit thairintil, the maiker thairof, and his successouris, sall be jugeis competent, and tak cognitioun thairanent.

Balfour, No 9. p. 269.

No 55. 1566. *July 10.* JOHN BALFOUR *against* MR ALEXANDER BALFOUR.

THE Lordis of Counsal are jugeis competent in causis of transferring of all decreitis, contractis, or obligatiounis gevin be quhatsomever judge, spiritual or temporal, actit and registrat in their buikis.

Balfour, No 10. p. 269.

. Maitland reports this case :

IN the action pursued by John Balfour against Mr Alexander Balfour his brother, and son and heir to Andrew Balfour their father, for transferring of a contract made betwixt the said Andrew and the said John pursuer, acted in the consistory books of St Andrew's, it was *alleged* by the said Mr Alexander, pursuer, that the said action ought not to be pursued before the Lords of Council, but allenarly before the official of St Andrew's, and commissaries thereof, in whose books the said contract was inserted; which allegiance of the said Mr Alexander was repelled by the Lords; and found, by interlocutor, that they were judges to all transferring of all contracts and decreets, given by whatsomever judge, spiritual or temporal, acted in the books; and ordained the contract, above-written, to be transferred in the said pursuer *passive*, notwithstanding the allegiance foresaid.

Maitland, MS. p. 167.