

No 1. feuda transeunt in heredes et non pensiones, et quamvis large sumend. feudum dicitur beneficium et sic pensio potest applicari ad feudum, quia possessio beneficium, non possessio feudi, presente argumentatur, tamen consequens ex præmissis non potest inferri, quia pensio neque beneficium neque pars beneficium ullo modo dici potest, et hoc legibus et juribus prædictis, et nulla ratio neque lex auferrè potest prout allegabat. THE LORDS, after long reasoning at the bar, *in præsentia regis*, found the reason of the summons irrelevant, licet magna pars in contraria fuerunt opinione.

Fol. Dic. v. 2. p. 55. Colvil, MS. p. 438.

No 2.
A gift of pension by a bishop, without consent of the chapter, being clothed with possession, found to subsist during the bishop's life.

1593. March.

HUTCHISON against KERR.

ANE Bogill in Glasgow raisit multiple-poining agains Bishop Erskin, on the ane part, Mr Henrie Kerr, having ane pensiou of twa chalders victuall furth of the reddiest fruttis, on the secund pairt, and George Hucheson on the third. Mr Henrie producit his pension, George Hucheson producit ane gift of pension, granted in lyfrent to his father and to himself be Bishop Betoun, be vertue whair of thay had bene in possession thir mony zeirs. Mr Henrie *allegit*, That notwithstanding thair of, he aucht to be answerit and obeyit, becaus the said gift disponit to Hucheson be the Bishop wes null, being set be the Bishop without consent of the chaptour; and albeit it micht have obleissit the Bishop not to run in the contrare thair of in his lyf tyme, yet he being *mortuus civiliter*, being forfalted, could not prejugè his successouris, and pairties having rycht flowing fra thame; notwithstanding the whilk alledgeance, the LORDS fand, thay wald not tak away the gift cleid with sa mony zeirs' possession in ane doubill poynding, bot ordainit the said Hucheson to be answerit and obeyit.

Fol. Dic. v. 2. p. 55. Haddington, MS. No 400.

No 3.

1614. June 30.

ANDERSON against M'CALL.

IN an action pursued by David Anderson *contra* David M'Call, the LORDS found a pension out of a coal real, and therefore decerned letters for poining of the coal, win, or to be win.

Fol. Dic. v. 2. p. 55. Kerse, MS. fol. 95.

1622. June 30.

BISHOP of ABERDEEN against His TENANTS, and the LO. DRUMLANRIG'S SON.

No 4.
A Bishop granted a

IN a double poining pursued at the instance of some of the tenants of the bishop-lands of Aberdeen against the L. Corss, being then Bishop, on the one