

November 1770, the date of the Ordinary's interlocutor. But, on a second reclaiming petition, and answers, they gave them from the 10th May 1770, the date of citation in the summons of wakening.

This interlocutor was acquiesced in.

Several other decisions, at *Spottiswood's* instance against *Craick of Arbigland*, *Turner of Ardwall and Others*, were cited in this case, in which it had been found that maills and duties were due in the special declarator, from the citation.

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SPOTTISWOOD *against* BURNET of CRAIGEND.

THE strongest of all these cases was betwixt Spottiswood and Burnet of Craigend. It was attended with several favourable circumstances; in so much, that, although the Lord Alemoor, Ordinary, 10th December 1761, found Spottiswood entitled to the superiority of Craigend, and that the lands were in non-entry, yet, on a reclaiming petition, and answers, the Lords, 14th July 1763, altered, and found, That Mr Burnet was entitled to hold his lands of Craigend of the Crown, and therefore assoilyed; and to this they again adhered 3d December thereafter.

But, on an appeal, the decree was reversed 22d March 1763; and a clause, as to the non-entry, was added in these words:—"But so as not to affect the respondent with any penalties on account of such non-entries, except from the commencement of the present action."

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1772. *March* . BRODIE of BRODIE *against* SIR JOHN SINCLAIR.

THE superiority of the lands of Wester Brimms, in the county of Caithness, was acquired *anno* 1741, by the Lord Lyon, Brodie, who, upon his death, was succeeded by his son Alexander, both in his tailyed and unentailyed estate. On Alexander's death his succession divided: His entailed estate went to Brodie, now of Brodie, his heir male, and his unentailed estate to his sister, Mrs M'Leod, his heir of line. Of this last the superiority of Brimms was a part. But Mrs M'Leod renounced the succession; by which means the late Earl of Caithness, who had succeeded to the property of Brimms by decease of Lord Murkle, could not obtain an entry,—and neither could his superior, Sir John Sinclair, who succeeded to the Earl in virtue of a tailye by his Lordship.

Sir John, having been advised to follow out the method prescribed by the Act 1774, raised a special charge, which he caused execute against both Mrs M'Leod and Brodie, to obtain themselves infeft as heirs in special to Alexander Brodie of Brodie, Lord Lyon, whereof one or other of them was in the right of apparenry of the said superiority. And that, to the effect that they might be in a capacity to enter him as heir of tailye in the property thereof, with certification of losing the superiority and whole casualties thereof during life; and