

1622. December 8.

INNES *against* INNES.

ONE Innes, vassal to the Bishop of Murray, being holden by the express clause of his infeftment, to compear in the Bishop's court to be holden at the place of Spynie, and being unlaed by Alexander Innes of Cotts, the Bishop's Bailie, for not compearance in his courts holden at another place than the place designed by his charter or infeftment; which being suspended on this reason, that he ought to compear in no other place than the place designed by his evident; —THE LORDS sustained the act unlaing him for being absent from that other place where the courts were holden, notwithstanding of the place appointed by the infeftment; because it was alleged by the Bailie, that the suspender and his predecessors expressly, as also the rest of the Bishop's vassals, hath been in the use these 30 years bypast, to come to that other place at which only the Bishop's courts were kept, and not to the place designed in the infeftment; which allegiance of the suspender, and his predecessor's use of coming to that other place, being their own deed, the LORDS found relevant to eleid the reason founded upon the infeftment, and place therein mentioned, seeing the suspender could not qualify nor allege any prejudice which he could sustain by coming to that place where the courts were in use to be holden, and by that change from the place of his infeftment.

Act. Aiton.

Alt. —.

Clerk, Gibson.

Durie, p. 37.

No 13.
The place where a baron's courts were held, was different from that mentioned in a vassal's infeftment. The vassal, notwithstanding, was unlaed for non-appearance at the court which custom had sanctioned.

1623. February 12.

INNES *against* GRANT.

INNES of Cotts, Bailie to the Bishop of Murray, of the regality of Spynie, charged Grant, one of the vassals, to pay the unlaw of L. 50 for many years, as the unlaw for his not compearance at the head court of the regality. Grant suspended, *alleging*, That Spynie was the place appointed by his infeftment, which was repelled in respect of the jewel-house of the thanrie of Elgin observed as the place of the head court for 30 years bygone, acknowledged by the vassals, and especially by the suspender and his father. Next he *alleged* that the unlaw was excessive.—The charger *answered*, That it was according to the act of Parliament.—THE LORDS modified the unlaw to L. 20 for absence from every head court. Lastly, he said that he could not compear personally, because he held land of the King and other superiors, at whose courts he behoved to compear; and so could not compear personally at the court of regality, but was content to send an attorney. Notwithstanding whereof, the LORDS found the letters orderly proceeded, reserving to the suspender his lawful defences, as accords of the law.

No 14.
Found as above.

Fol. Dic. v. 1. p. 203. Haddington, MS. v. 2. No 2759.