

## POSSESSORY JUDGMENT.

## SECT. I.

What title requisite.---What time requisite.---Connection of possession.

1628. March 26. MAXWELL of Cowhill, *against* PORTRACK.

**I**N an action betwixt Maxwell and Portrack, whereof mention is made 21st March 1628, *voce* SASINE, the LORDS found the defender's infeftment of his lands from the King's Majesty, of whom the same were holden *cum piscationibus in aqua de Nith*, with continual possession of fishing of salmon within the said water, by the defender and his predecessors, conform to their said infeftment, and use of debarring of all others from fishing of salmon therein, was sufficient, and sustained the same to defend the excipient in this removing, it being a possessory judgment against this pursuer, and his pursuit founded upon special right of the salmon fishing, disposed to him and his predecessors *per expressum*; and had no respect to the reply made by the pursuer, whereby he alleged, that salmon-fishings were *inter regalia*, and could not be comprehended under the general clause *cum piscationibus*, and that they were not disposed, except they were *specifice* and *per expressum* disposed; which reply was repelled, and the said exception sustained.

*Fol. Dic. v. 2. p. 88. Durie, p. 371.*

No 1.  
Lands being disposed *cum piscationibus*, with continual possession of salmon-fishing, this found sufficient defence against removing, although it was alleged that salmon-fishing being *inter regalia*, could not be comprehended under the general clause, *cum piscationibus*.

1632. December 7.

STUART *against* LUNDIE.

ONE Stuart pursuing Sir James Lundie to remove from an husband-land in Eyemouth, holden of Coldinghame, conform to an infeftment, granted there.

No 2.  
This reply of nullity against the defender's infeftment.