

1627. *January 16.* COURTIE *against* CUNNINGHAME.

No 129.

JANET COURTIE, assignee made by umquhile Agnes Grier to a bond of 100 marks, made to her by James Cunninghame, pursues the said James for payment. The defender *alleged*, That the assignation is made by the cedent on her death-bed, the bond being heritable. This allegiance was repelled, in this place; but prejudice to reduce upon that ground *prout de jure*; for the Lords found, that they would not, in this process, by way of exception, so summarily annul the assignation.

Clerk, *Hay*.

*Durie, p. 256.*

1628. *February 11.* ——— *against* BRUCE.

No 130.

No objection against the interest of a party can be received after a peremptory is proponed.

*Auchinleck, MS. p. 167.*

1628. *June 18.* PURVES *against* DAVIE.

No 131.

AFTER a peremptory is proponed, the party proponing cannot object that the summons ought to be continued.

*Auchinleck, MS. p. 167.*

\*.\* Durie's report of this case is No 9. p. 11968.

1630. *December 21.* ——— *against* ANNAND.

No 132.

TENANTS being pursued for mails and duties by a compriser, *allege*, They are tenants to another man, who stands infest in the said lands, and is in possession thereof, in uplifting from them the mails and duties, and he is not summoned. To which it was *answered*, That their master's infestment was null. It is *duplicated* by the tenants, That they cannot dispute their master's right; but he must be summoned to dispute his own right. THE LORDS would not sustain this exception, being proponed dilatorily; but ordain the master to compear for his interest.

*Auchinleck, MS. p. 167.*