

their instances against the other, can only have execution at his instance by whom it was registered, but not all the others; neither yet can it be transferred at his instance who did not register it; yet, of favour, the Lords did not cast the summons, but gave the pursuer leave to turn his conclusion, and ordained the defenders to see while that day eight days.

Spottiswood, p. 342.

No. 14.

1634. *March 26.* DUNBAR against PROVOST of ELGIN.

No. 15.

In an action against Magistrates for not taking a rebel, it is sufficient that the rebel's representatives be cited for their interest after his decease, without necessity of transferring the process against these representatives.

Fol. Dic. v. 2. p. 475. Durie.

* * This case is No. 30. p. 11701. *voce* PRISONER.

1637. *March 3.* L. CROSBIE against HUME.

No. 16.

The umquhile L. Crosbie having intented and pursued removing against Hume, and he dying *pendente lite*, his son, being served heir to him, craving this action to be transferred in him *activè*, and it being alleged, that he could not seek transferring in himself, by virtue of this title produced, whereby he was only retoured general heir, seeing none could seek this transferring, nor prosecute that removing, but only he who was infest particularly in the lands libelled, for without a special sasine of these lands he could not desire any to be removed therefrom, and consequently none without such a special sasine, which might be a ground to insist in that removing, could seek transferring thereof,—the Lords repelled this allegation against the transferring, and reserved this to be proponed and discussed whenever this pursuer should insist in the process of removing:—Which I think a little uncouth, that a transferring of a process of removing should be granted to one not seised.

Transference of a process of removing.

Act. Craig.

Alt. Belshes.

Clerk, Gibbon.

Durie, p. 835.

1666. *July 14.*

PATRICK KEITH against LAIRD LESMORE, TROUP, and Others.

No. 17.

Patrick Keith having right of wadset, granted by the Earl of Marischal, pursues a reduction against the Laird of Lesmore of a certain posterior right, granted by the Earl to him; which right was disposed to Muiresk, who was infest; and disponed to Troup, who is present heritor; who being all called, and litiscontestation made, and the cause concluded, at the advising thereof, it was alleged for Troup, That Muiresk was dead, and there could be no advising of the cause till some

After conclusion of the cause in a reduction, found that it could not be advised till the representatives of