

Leslie, with concurrence of the executors of the said umquhile Colonel, gives in a supplication, craving some bonds belonging to the umquhile Colonel, which was consigned in John Dickson's hands as clerk, to be given up to them by him; and the executors to the said umquhile Colonel's relict alleging, that this summary order could not be sustained by way of supplication, but ought to abide an ordinary pursuit, by way of action, that all parties having interest might be called; likeas they, as having special interest, compear, and allege, that, if they were cited, they would answer that the relict has right to the half of the bonds and sums therein, there being no bairns on life betwixt them: Notwithstanding whereof the Lords ordained thir bonds to be given up to the supplicants by the clerk, upon inventory.

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1642. *February 15.* HALPLAND *against* CRAWFURD.

ONE Halpland having obtained decret of removing against Crawford of Camlarge, pursues his daughters as charged to enter heirs to their defunct father, and their husbands, to pay the violent profits of the said land intromitted with by their umquhile father. This action, and all actions of violent profits, the Lords found, ought to abide continuation; and the rather where the summons bore no privilege, as being accessory to the Lords' decret of removing, which preceded.

Scot, Clerk.

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1642. *July 16.* JOHN ELDER *against* JOHN MERCER.

JOHN Elder, son to Henry Elder, clerk of Perth, being provided to the office of clerkship in Perth, by the council of the town, with reservation of his father's liferent, in April 1623, at which time he was an infant within three years of age; with provision that he, with his tutors, by advice of the council of the town, should appoint deputes to serve therein during his minority; and the father thereafter dying in October the same year, 1623, John Mercer is provided to the same office vacant by his decease, and is provided during all the days of his lifetime; in which provision in the clause of warrandice thereof, special exception is made of that prior provision granted to John Elder, the deceased clerk's son; likeas the said son, when he was past majority, was also admitted and received by the council of the town to that same office: and they contending who should be preferred to the said place, which the said John Mercer alleged was only due to him, he being provided by a lawful manner of vacation, *viz.* the incumbent's decease, and during his lifetime, and having served therein 20 years bygone; and the other provision being null, not having a cause of vacation, but bearing reservation of his father's liferent, who was then living; and being granted to an infant, who could not serve in that office, and he wanting tutors, and no deputes being either sought, or given to him, his gift given to