

DECISIONS

OF THE

LORDS OF COUNCIL AND SESSION,

REPORTED BY

SIR JAMES DALRYMPLE OF STAIR.

1662. *February 7.* JEAN ACHESON *against* The LAIRD of M'LEAN.

DAME Jean Acheson pursues the Laird of M'Lean, as representing their predecessors, who was cautioner in a suspension. The defender alleged, Nothing produced to prove the suspension discussed, but letters of horning upon a protestation, which cannot instruct the protestation. The Lords repelled the defence, in respect of the absence of the register, and the oldness of the horning.

Vol. I, Page 94.

1664. *November 12.* The DAUGHTERS of BALMIRRINO *against* _____.

THE daughters of Balmirrino having pursued the heirs-male for their portions contained in their mother's contract of marriage, and for a competent aliment until the same were paid, the defender renounced to be heir, and was absent. The Lords advised the contract, by which they found the portion payable at the daughter's age of fifteen, and aliment till that time, but no mention of annualrent, or aliment thereafter; yet they found, that the aliment behoved to be

continued till their marriage, or the payment of their tocher, they being minors, and lesed, by not pursuing therefore at the age of fifteen; but that they could not have annualrent, seeing the contract bore none.

Vol. I, Page 225.

1664. *December 17.* MR THOMAS PATERSON *against* WATSON.

MR Thomas Paterson charges Watson to remove from his glebe; who alleged the designation is null, because it is not subscribed by the ministers, designers, but is only the assertion of a notary. *2dly.* By the Act of Parliament 1663, anent glebes, there is an exception of royal burghs, to which ministers' glebes are not due; *ita est* Dysert is a royal burgh. The charger answered to the first, That the having a warrant from the bishop and presbytery, his instrument of designation is as sufficient as a seisine to give right to land. And to the second, The royal burghs excepted must only be understood of such who have not a landward congregation, but are chiefly constituted of an incorporation for trade; but this burgh is notourly known to be but a burgh of barony, holden of the Lord Sinclair; albeit it has the privilege of a vote in Parliament, and is a parsonage. The Lords sustained the designation; but, before extract, ordained the testificat of the ministers, designers, under their hands, to be produced.

Vol. I, Page 242.

1664. *December 22.* CORNELIUS INGLIS *against* MR RODGER HOG.

MR Cornelius Inglis, being infest upon an apprising, pursues a removing; compearance is made for Mr Rodger Hog, who alleged, That he is also infest, and had charged the superior, though after the first appriser, and had possessed seven years, by lifting the mails and duties; and therefore craved the benefit of a possessory judgment. The Lords, having considered the case amongst themselves, whether an apprising and charge, without infestment, could give the benefit of a possessory judgment, they were equally divided in their votes; and the President resolved, before he gave his vote, to settle the parties.

Vol. I, Page 245.

1665. *February 15.* THE BISHOP of DUMBLAIN *against* EARL of CASSILS.

THE Bishop of Dumblain pursues the Earl's tenants for the teinds of the abbacy of Corsregual, as a part of his patrimony annexed thereto by the Act of Parliament 1617. The defender alleged no process till the Act of Annexation, being but an Act unprinted, were produced. *2dly.* Absolvitor; because the defender had tacks from the king *in anno* 1641; and, by virtue thereof, was in possession, and could pay no more than the duties therein contained, till they were reduced. It was answered to the first, It was notour; and, if the defender