

1681. *June 16.* REVEREND ANDREW URIE *against* JAMES NAIRN.

IN the case of Mr Andrew Urie, minister at Morningside, against James Nairn in St Andrew's, the Lords, upon Haddo's report, admitted Mr Andrew to reply upon the Act of Parl. 1621, against a fraudulent disposition made by Nairn's father to him, being then his second son; and ordained Nairn to condescend on the onerous causes thereof; and would not (as commonly they require,) put him to a reduction on that Act; and this because it was *in re parvi momenti*, and fell *incidenter* only into this process on the passive titles, and was a transaction *inter patrem et filium*.
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1681. *June 16.* The COMMISSIONERS of EXCISE in Fife *against* The CREDITORS of SIR ALEXANDER BRUCE of BROOMHALL.

THE Commissioners of the King's Excise, in Fife, against the Creditors of Sir Alexander Bruce of Broomhall, who, for several years, had collected the said Excise; for, by the law of the kingdom, failing the Collectors, the gentlemen who, by the 14th Act of Parliament 1661, are appointed to uplift it in every shire, their estates are hypothecated and liable for the same *in subsidium*.

The debate was a competition of preference betwixt the said Commissioners and Broomhall's creditors, as to the right of his estate. The King's tacit hypothec in the goods of all those that uplift his revenue, making him preferable to all other creditors, was urged for the Commissioners; likeas, it could be made appear that Broomhall with the public money paid his own debts.

IT WAS ALLEGED for the creditors,—That they had real rights upon his lands, perfected with all the solemnities required by the laws of the kingdom; which behoved to be a security to them.—As to such creditors whose debts were contracted, or real rights perfected, after his intromission with the King's money, and his collection, they were judged to be in a less favourable case than the anterior ones. See, of the regal hypothec, *Peregrinus de Jure Fisci*.

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1678, 1679, 1680, and 1681. DAVID JACK *against* CLAUD MUIRHEAD.

1678. *February 14.*—DAVID Jack pursues reduction of a comprising led against him, as lawfully charged to enter heir to his father, and of the grounds of it against Clerk and Muirheads. The 1st reason of reduction was, One of the bonds was null, because subscribed by two notaries before three witnesses only: the Lords repelled this, because there were four inserted and designed in the body. 2do, That, in the decret *cognitionis causa*, the procurator's name was blank: this the Lords regarded not. 3tio, That the charge to enter was wrong signeted: this they also rejected. 4to, That a sheet in the executions and another in the comprising were cutted and falsified.