

## NON-ENTRY.

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1732. *December 19.*

DAME MARTHA LOCKHART, LADY SINCLAIR, *against* SIR JAMES STUART  
of Coltness.

No. 1.

As to obligations to enter heirs or singular successors *gratis*, how far binding on their successors? *vide* PRINTED PAPERS in this case, (and NOTES.)

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1743. *December 8.*      NAPIER *against* KINCAID.

No. 2.

NON-ENTRY,—there can be no declarator of it without calling the heir or apparent-heir of the immediate vassal, and the calling the sub-vassal in possession is not enough; and the apparent-heir of the immediate vassal sisting himself without being called will not supply the defect.

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1746. *May.*

CAPTAIN CHALMER of Gadgirth *against* HIS VASSALS.

No. 3.

THERE being several apprisings or adjudications of a superiority, the apparent-heir in the right of one of them pursued declarator of non-entry against the vassals, who had been long in non-entry. The Lords, in respect the pursuer sued in right of apprisings, and was not entered heir, found no non-entry or retoured duties due, 19th and 28th November 1745. And May 1746, these interlocutors were upon appeal affirmed, with this variation in the *ratio decidendi*, viz. by adding to the Ordinary's interlocutor these words: "it appearing that before the charter granted to the appel-

- No. 3. “lant, (*i. e.* Captain Chalmer) it was uncertain in whom the superiority “ of the lands in question was vested ;” and leaving out the *ratio decidendi* mentioned in our interlocutor, viz. that Captain Chalmer claimed the superiority not as heir, but as singular successor. (See DICT. No. 41. p. 9830.)

See NOTES.