

1749. *July 5.* CREDITORS OF LIDDERDALE OF TORRS, *Competing.*

No. 15.

AN agent found to have a hypothec not only against his employer for payment of his account, but also against his real creditors, *contra* the decision M'Viccar, No. 3. *supra*; but the agent having paid the Sheriff at taking his client's infestment as heir to his predecessors, the money due to the Crown, he was found not to have any hypothec for that money. (See DICT. No. 54. p. 6248.)

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1750. *January 12.*

ANDREW BROOMFIELD *against* DAVIDSON of Haltree.

No 16.

HYPOTHEC in corns is only competent for the rent payable for that crop, whereof these corns are the produce; and therefore a tenant entering at Whitsunday 1740, and paying his first year's rent, the half at Martinmas 1740, and the other at Whitsunday 1741, which of consequence was fore-hand rent for the crop 1741, which behoved to be the tenant's first crop; a creditor pointing the corns in September 1748, they were found hypothecated to the master for the rent payable at Martinmas 1747 and Whitsunday 1748, which was the rent of that crop 1748, and not as the creditor contended for, the rent payable at Martinmas 1748 and Whitsunday 1749, the terms immediately after the crop; for the rent then payable was truly the rent of crop 1749, which was not sown at the time of the pointing.

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1751. *July 18.* ROBERT DALRYMPLE *against* EARL of SELKIRK.

No. 17.

THE late Earl of Stair having employed Mr Robert Dalrymple to write dispositions, and expedite charters and sasines of some lands in favours of his nephew the deceased Captain John Dalrymple, to qualify him to vote at elections,—Earl of Selkirk, as creditor to the Captain, adjudged these lands from his heirs, and pursued mails and duties; wherein compearance was made for Mr Dalrymple, now of Stair; and Earl of Selkirk called Mr Dalrymple on a diligence to produce the Captain's rights; and he pleaded his right of hypothec till he was paid his account. Lord Kilkerran, Ordinary, seemed to think the hypothec not good in this case, and that the pursuer might, without paying the account, force production of them *in modum probationis*, (agreeably to the decision Earl of Sutherland against

- No. 17. Coupar, No. 8. *supra.*) But on a reclaiming bill I observed that the cases were different. There the Earl of Sutherland used them only to prove a fact, that the vassal had committed a feudal delinquency to infer the recognition; but here the pursuer was using these writs as his authors, and consequently his own titles to the lands and to the rents sued for; and the Lord Ordinary and the Court agreed to the distinction, and therefore remitted the cause to the Lord Ordinary.
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1752. July 30. LESSLY of Lumquhat *against* HUNTER.

No. 18.

ARNOT, a weaver, being employed by Lessly of Lumquhat to weave two webs of linen, sent them afterwards to Hunter's bleachfield, and marked them with his own name, and then broke, when he owed Hunter an account of bleaching a former parcel of linen; therefore Hunter retained Lumquhat's cloth for payment of that account, saying that he bleached it as Arnot's, whose name was in it, having in his advertisements directed the owners to sew their names in the cloth. Lumquhat sued him before the Justices of Peace, and on a proof of his property, that is, of his property of the yarn, and employing Arnot to weave it, and paying him for weaving, recovered decret, on payment of the bleaching only of these two webs;—which Hunter suspended;—and Lord Kilkerran affirmed the decret;—and we adhered, but only by the President's casting vote.—N.B. Lumquhat denied that he knew or consented to Arnot's marking the cloth with his own name. (See DICT. No. 130. p. 2660.)

See NOTES.