

1734. June 19. CAMPBELL *against* EARL of CAITHNESS.

No 6.

ONE deriving right to lands from an apparent heir, who died in the state of apparen-  
cy, insisted in an exhibition of the title deeds of the estate. *Objected*,  
That he had no right to the lands, nor consequently to the title deeds.—THE  
LORDS found the pursuer had no title to demand exhibition of rights granted to  
the predecessors of his author, the apparent heir. See APPENDIX.

*Fol. Dic. v. I. p. 281.*

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S E C T. II.

Whether a party can be required *edere instrumenta contra se.*

1623. February 1. MONTEITH *against* M'MATH.

IN an action pursued by Robert Monteith against William M'Math, The  
LORDS found, that no man could have action to compel a party to exhibit writs,  
to found an action against the defender.

No 7.

*Fol. Dic. v. I. p. 281. Haddington, MS. No 2738.*

1668. July 7.

RELICT of WILLIAM PATON *against* RELICT of ARCHIBALD PATON.

THE relict and executors of William Paton, pursue the relict and executors  
of Archibald Paton, for count and reckoning of sums and goods belonging to  
the said umquhile William Paton by Archibald, and crave the defender to  
produce Archibald's count books, who alleged *nemo tenetur edere instrumenta sua  
contra se ad fundandam litem*; so that the desire was no ways reasonable, unless  
the pursuer had given in a particular charge, and litis-contestation had been  
made thereon; in which case, the defender might have been compelled, *ad mo-  
dum probationis*, to have produced the books. It was *answered*, the contrary  
was found in the count and reckoning betwixt the children of George Suitty  
against the representatives of William Suitty their tutor, and that there was as  
great reason here, the two defuncts having been brothers, and being in copart-  
nery together, and the one factor for the other. It was answered, that the

No 8.

In a count  
and reckoning  
betwixt the  
representa-  
tives of two  
brothers who  
were alleged  
to be copart-  
ners, the pur-  
suer craved  
production of  
the defender's  
father's ac-  
count book  
to fix a charge  
against him.  
The Lords  
appointed one  
of their num-