

In the said action, it was alleged, That Westraw was not obliged to produce procuratories nor instruments of resignation, where the charters made mention of them, nor precepts of seaisine, where the instruments of seaisine contained the tenour, conform to the Act of Parliament *in anno* 1594, cap. 214. The Lords ordained the charters and seaisine to be first produced, before they would admit the allegiance founded on the said Act.—*4th March* 1628.

[See the remaining part of the report of this case, 4th March 1618, in the Dictionary, p. 6688, No. 111.]

*Page* 91—93.

1627, *December* 15; and 1628, *March* 5. ARCHIBALD DOUGLAS *against* LAUDER.

THE minister of Northberwick, being addebted to one Lauder, makes him assignee to certain victual, to be paid to him by Sir John Hoome, for his stipend of the crop 1627. The assignation is dated in March 1627, and, immediately thereafter, intimated to the said Sir John, in April 1627. The said minister borrows from another man a certain sum, upon his bond, to be paid in September following. Archibald Douglas arrested the victual in Sir John Hoome's hands in July; and, October thereafter, raises summons against the said Sir John, to hear and see the arrested goods forthcoming to him. Compears Lauder, for his interest, and alleges, That he ought to be preferred, by reason of his assignation, first intimated, before arrestment; and Douglas alleges he used great diligence, in so far as he both arrested and raised summons first. Lauder alleged that Douglas's diligence was *nimia*, because he raised before the term of payment was come. The Lords preferred the assignee.—*15th December* 1627; and, *5th March* 1628.

*Page* 13.

1628. *March* 7. WILSON *against* L. DRUMLANRICK.

AN arrestment may be used *activè*, for payment of sums contained in an heritable bond; albeit the sums of an heritable bond may not be arrested *passivè*.

*Page* 12.

1628. *March* 11. ——— *against* ———.

THE donatar to the liferent of one of the Earl of Marr's vassals of Dryburgh, pursues a declarator. It is alleged, The summons must bide continuation, because it must be proven by the Earl of Marr, his superior. It was answered, By the Earl of Marr's seaisine, produced, it was clearly proven that the Earl is