

red to Horsburgh, who alleged his goodsir was infest and forty years in possession before the said Dalmahoy obtained possession.

2d MS. Page 189.

1628. *July 11.* JOHN KER *against* The TENANTS of LONGNEWTON.

IN the concurrence of two base infestments, whereof one, dated in *anno* 1613, is granted to _____, who set a back-tack to the disponent; the other set, in *anno* 1621, to another person, who apprehends real possession, by uplifting of the mails and duties from the tenants: He that had the first right pursues removing against the tenants, upon warning made *anno* 1628. The haver of the last infestment excepts upon his infestment, clad with five years possession, alleging his right could not be taken away but by reduction. The Lords preferred the first infestment and possession by a back-tack, and decerned removing.

2d MS. Page 189.

1628. *July 26.* KER *against* The TENANTS of SMEATON SPITTELL, and JOHN BOSWELL of PITTEDIE.

KER, having comprised the lands of Smeaton Spittell from the Laird of Coldingknowes, pursues the tenants for removing. Compears John Boswell of Pittedie, for his interest; and alleges, That he is heritably infest in the said lands, and in possession, by uplifting of twenty shillings, more or less, from the tenant. It is answered, That the alleged possession is but simulate, in so far as the lands are worth five hundred merks by year, and the collusion thereby is manifest betwixt Pittedie and the tenant. The Lords repelled the exception, in respect of the evidences of simulation and collusion.

2d MS. Page 189.

1628. *November 21.* WATSON *against* REID of AIKENHEAD.—And LADY EDNEM *against* the LAIRD of KEIR, &c.—*July, 1628.*

A DECREET, for poinding of the ground for an annualrent, obtained against the heritor and the tenant, may be executed against another tenant that succeeds to the occupation of the said ground, albeit no other decreet be recovered against him: notwithstanding of the Act of Parliament made by King James III, Parl. 5, cap. 36; which Act is interpreted not to concern annualrent addebted furth of the ground, but other debts resting by the master.

2d MS. Page 170.

1629. *January 8.* JAMES BOYLE *against* ROBERT GAMBLE.

JAMES Boyle, procurator-fiscal to the commissary of Glasgow, his brother, be.