

remptoriam ex altera parte propositam quam de practica dominorum inducit litiscontestationem, postea de jure actor libellum mutare addere aut minuere non potest, nec in ea aliquid pro deleto habere.

Fol. Dic. v. 2. p. 197. Sinclair, MS. p. 66.

No 229.
the pursuer cannot alter or pass from any part of his libel.

1554. February 23. The QUEEN against CAPRINGTON.

No 230.

ANENT the action pursued by the Queen's grace against the Laird of Caprington and others of inquest for an assize of error, it was *alleged* by the said inquest, That the Queen should not pursue summons, because she had raised and pursued other summonses of error to the same effect of before depending before the Lords, and the exception is peremptory given in writ to the Lords, and answers thereupon, wherefore litiscontestation was made. It was *alleged* by the Queen's advocate, That he would renounce the foresaid summons. The other party *alleged*, That he might not renounce *post litiscontestatione* made. It was *alleged* by the Queen's advocate, That there was no litiscontestation made without there had been an exception peremptory admitted, or else the libel denied, or else the actor getting the libel to his probation, which was admitted, and ordained farther process, notwithstanding the allegiance of the inquest.

Fol. Dic. v. 2. p. 197. Maitland, MS. p. 113.

1574. July 1. EARL of SUTHERLAND against EARL of CAITHNESS.

No 231.

THE Earl of Sutherland pursued the Earl of Caithness for production of a contract of marriage made betwixt them for marriage of the said Earl of Caithness's daughter to the Earl of Sutherland, alleged by the pursuer to be in the defender's hands and keeping, and referred the same to the defender's oath. The defender *alleged*, He should not give his oath *de veritate*, because the pursuer already had pursued him for it, and had got it to his probation, that the defender had it, and had produced certain witnesses thereupon, who were sworn and examined, and so litiscontestation made, and therefore he was not obliged to give his oath *de veritate* in the said cause; which allegiance of the defender, the LORDS admitted.

Fol. Dic. v. 2. p. 200. Colvil, MS. p. 241.

1575. January 20. GLENBERVIE against UDNEY.

ANENT the action pursued by the Laird of Glenbervie against the Laird of Udney, for the double of Udney's marriage, by reason, that he married by Glenbervie's daughter, who was offered by her father as party agreeable, as he

No 232.
Found as above.