

No. 3.  
Found in conformity with the above.

1606. *March.* LORD GAIRLIES *against* MAKULLOCH.

In a removing from salmon fishing, pursued by the Laird of Gairlies against Makulloch, it was alleged, that the defender was infeft in the lands adjacent to the water, with the clause *cum piscationibus in verbis dispositivis* before the *tenendas*; and, by virtue thereof, in possession past memory of man, (it being no coble fishing.) It was replied, that salmon fishings were *regalia*, and required express infeftment, and this fishing was a salmon fishing in water where the sea ebbed and flowed. In respect of the which reply, the Lords repelled the exception.

*Fol. Dic. v. 2. p. 360. Haddington MS. No. 1080.*

No. 4.

1610. *February 16.* CAMPBELL *against* CAMPBELL.

It was found, in an action of removing pursued by Sir Duncan Campbell, of Glenurchy, *contra* Alexander Campbell, Prior of Ardchatton, that a sasine of a barony, or third part of a barony or Lordship, dispoed to Glenurchy to be holden of the Earl of Argyle, did comprehend salmon fishings, albeit the barony was not holden of the King; specially in respect the sasine bear him to be infeft in the haill fishings, as well upon the sea as fresh waters, which was found to include salmon fishings.

*Fol. Dic. v. 2. p. 360. Kerse, MS. fol. 73.*

\* \* Haddington reports this case:

An infeftment of lands *cum piscationibus tam in mari quam aquis dulcibus*, found to be a sufficient right to salmon fishing, albeit it made no mention of salmon fishing, and that the land was holden of the Earl of Argyle.

*Haddington MS. No. 1810.*

No. 5.

1628. *March 26.* MAXWELL *against* PORTRACK.

AN infeftment of lands from the King, *cum piscationibus in aqua de Nith*, with continual use of fishing salmon in the said water, and debarring others therefrom, was found insufficient to defend against a removing at the instance of one who was infeft in the said salmon fishing *per expressum*.

*Fol. Dic. v. 2. p. 360. Durie.*

\* \* This case is No. 1. p. 10617. *voce* POSSESSORY JUDGMENT.

No. 6.

1701. *December 3.* FORBES *against* UDNEY.

THE Lords sustained a party's right to a salmon fishing, though his charter bore only *cum piscariis*, and not *salmonum piscationibus*, and this because of old the word