

curator of the said sums, for which he had the procuratory, whereby to pursue, and so it was not revocable, even though he had been living.

Clerk, *Gibson*.

Fol. Dic. v. I. p. 209. Durie, p. 452.

No 3.
was pursuing debts, had already paid the sum to the constituent.

SECT. II.

Procuratories and Precepts.

1611: February 6. GILBERT ROBERTSON *against* The BAILIE of BURNTISLAND.

GILBERT ROBERTSON having obtained a procuratory of resignation of a tenement of land, in Burntisland, from a woman who was heritable proprietor thereof, and having required the Bailie of the town to receive the resignation, and give him infestment conform thereto; and taking instrument upon the Bailie's refusal, the woman who made the resignation thereafter deceasing, Gilbert pursued the Bailie, and the woman's heir, for his interest, to hear the Bailie decerned to give him sasine upon the foresaid resignation, and to hear the same found as lawful as if the sasine had been given in the resigner's lifetime, which reason the LORDS found relevant, and decerned conform thereto.

Fol. Dic. v. I. p. 209. Haddington, MS. No 2144.

No 4.
A sasine was decerned to be given by the superior upon a procuratory of resignation after the resigner's death, upon instrument taken against the superior for refusing before the resigner died.

1707: March 28. LADY MARY BRUCE *against* The EARL of KINCARDINE.

THE said Lady Mary, eldest sister to the last Earl of Kincardine, and William Gochran of Ochiltree, her husband, pursue Sir Alexander Bruce of Broomhall, now Earl of Kincardine, on this ground, that the last Earl subscribed two procuratories of resignation in favour of the said Lady Mary, for resigning the title, dignity and honour in the Queen's hands in her favours; and therefore, the said Sir Alexander, as heir-male, had no right to assume the title of Earl of Kincardine, his predecessor being denuded; and therefore, should be prohibited and discharged from using the same; and that Lady Mary had right to obtain from the Queen a patent on her brother's procuratories, notwithstanding the same were never resigned before his death, if the Queen please to confer the same. *Alleged* for the Earl, That titles of honour not being *in commercio*, they

No 5.
A procuratory of resignation of a title of honour, found not to fall under the act 1693, so as to become void by the death of the granter.