

1617. February 28. A. against B.

No 4.
The cedent's
fraud not im-
putable to the
assignee.

THE LORDS found, That the exception of simulation of a gift of escheat, taken upon the expences of the rebel, could not be opposed, that the assignee, who, being a creditor, had acquired the same to his own behalf, except it were proven that the assignation was also simulate.

Kerse, MS. fol. 54.

1617. July 24. STEWART against BAILLIE.

No 5.
Cedent's oath
cannot be
taken to the
prejudice of
the assignee.

IN an action of suspension, pursued by William Stewart of Dunduff against Mathew Baillie; the reason being referred to his oath, compeared Mr John Sheen for his interest, who was assignee constitute by Mathew Baillie, before the raising of the suspension, and *alleged* that the cedent's oath could not be taken in his prejudice; which the LORDS found relevant.

Kerse, MS. fol. 54.

1621. November 20. GRIER against MAXWELL.

No 6.

FOUND that the assignee may pursue in the cedent's name, albeit he discharge the procurators to compear in his name.

Kerse, MS. fol. 54.

1622. January 17. WALTER HAY against MARK KER.

No 7.

FOUND that an improbation pertains to the assignee, albeit it be not assigned *per expressum*.

Kerse, MS. fol. 55.

1622. June 29. B. ABERDEEN against LORD DUNLAGERY.

No 8.

ASSIGNATION of a pension *cum potestate*, found null, because it was made two years before the pensioner's decease, and neither intimate nor clad with possession. This found thereafter, 17th December 1628, Craigvaer against Chalmers.

Kerse, MS. fol. 54.