he could have by that infeftment, and was content that the said lands should be comprised, by the creditors, from him, he never receiving any other benefit from his father. Yet the Lords found that he remained subject to pay all his father's debts: for the which the creditors might both use personal execution against him, as universal successor to his father, he being successor in the particular lands foresaid; as also execution against him in any other lands or moveables which he had acquired, or should acquire, *aliunde* than from his father; and found, that his renouncing of any benefit which he could have by his father, could not liberate him, seeing he being once infeft *post contractum debitum*, in the special lands foresaids pertaining to his father, to whom he was *alioqui successurus*, made him liable to the whole creditors. But the Lords reserved to him his action of reduction upon his minority and his lesion, as accords of the law.

Act. Nicolson. *Act.* Aiton. Gibson, *Clerk.* *Vid.* 23d February 1637, L. Kinaber, and the cases there cited.

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1625. *July* 12. Lord Cathcart *against* The Laird of Carss.

In an action of improbation, at the instance of the Lord Cathcart *against* the Laird of Carss and his other vassals;—the Lords found, that, in such improbations, the pursuer may call the defenders for production and improbation of retours, whereby they are served heirs to their predecessors in the lands controverted, and that they have sufficient interest to insist for production of such retours; because, if the pursuers may quarrel the same, and impugn them, and if they fail, so that there be no such retours, the lands may thereby be in non-entry, whereby the pursuer will have the right and benefit of the land by the non-entry.

Act. Hope. *Alt.* Nicolson and Belshes. Gibson, *Clerk.*

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1625. *July* 19. Ker *against* Ker.

In a suspension betwixt Ker and Ker, the suspender offering, in his reason, to compense the sum charged for, with the like sum contained in a sentence obtained, at the suspender's instance, before the commissaries of ———; and the sentence being produced to verify the compensation,—the same was found null *ope exceptionis*, because it was not given upon a subject proper to the ecclesiastical jurisdiction, and where it might appear to be sustainable, because it was referred to the defender's oath, who was holden as confessed. The sentence was found null, because it exceeded the sum of 40 pounds, and so beyond the instructions given to commissaries, who may not judge in civil matters, albeit referred to the party's oath, where the sum is above 40 pounds.

Hay, *Clerk.* *Vid.* 6th February 1624, Gordon; *item* 18th June 1634, Richardson *against* Maxwell, where their jurisdiction is extended to 100 pounds, in