

their deceases, albeit in effect both the words be one; and also found, that the substitution foresaid was not any impediment which could hinder the first person, far, to transmit effectually the right of the sums in the person of the assignee, albeit she was unmarried. And therefore sustained the charges at the assignee's instance.

Act. Lawtie. Alt. Hope. Gibson, Clerk. Vid. for this last part, 14th January 1631, Helen Sharp.

This matter being called *in præsentia Dominorum*, 10th March 1626, Major Munro compearing, and claiming the sum, this same decision was allowed, and Dr Kincaid preferred, and his assignation found good and lawful, albeit his cedent died unmarried.

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1626. *March 8.* The BISHOP of DUMBLANE *against* His VASSALS.

IN an improbation, pursued at the instance of the Bishop of Dumblane *against* his Vassals, an exception being proponed for the Laird of Kers-Crawford, who was minor, that he was not lawfully summoned, because his tutors and curators were not summoned at the market-cross of the head-burgh of the sheriffdom where the minor dwelt, nor where his land lay, but at the market-cross of another sheriffdom, where neither they nor the minor had any lands or dwelling; which was alike as if they not been summoned at all, and who, if they had not been summoned, process could not be granted against the minor;—this allegiance was repelled *hoc loco*; for the Lords found that they could not, in this process, take trial where the minor or his curators dwelt, or his lands lay, and so would not receive this exception of *alibi* in this cause, but reserved to the defender his action to reduce thereupon, as accords.

Act. Aiton. Alt. Belshes. Hay, Clerk. Vid. 26th July 1625, L. Rankilor.
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1626. *March 11.* JOHN LIBERTON *against* ADAMSON.

IN a suspension, betwixt John Liberton and Adamson, for suspending a decreet obtained by Adamson against Liberton before the town of Edinburgh, for payment of 40 pounds, referred to his oath, and, for contumacy, decerned against him,—the reason of suspension bearing, *that Liberton was not an indweller within Edinburgh, neither the time of the sentence, nor at any time before, nor sensine*; so the provost and bailies were not judges competent to him, he not being subject to their jurisdiction, and so the decreet, being *a non suo judice*, was null;—the Lords, notwithstanding of this reason, sustained the decreet, seeing it was referred to his oath, and was a matter of small moment; but prejudice to reduce the same upon that reason, *prout de jure*.

Act. Lermonth. Alt. ———.

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