

they might have alleged some reasons why the legacy should not have been paid, as *quod debita excedunt bona*, or some other lawful defence, which makes them necessary parties to have been called; so that the process, without their citation or concurrence, could not be sustained.

No 36.  
funct. They might allege reasons why the legacy ought not to be paid.

Act. Nairn.

Alt. Haliburton.

*Fol. Dic. v. 1. p. 134. Durie, p. 288.*

1627. December 17. LD. CARNOUSIE *against* LD. TECHMURIE.

A COMPRISER of a reversion, redeeming lands from a wadsetter, need not call the reverser or his heirs.

No 37.

*Fol. Dic. v. 1. p. 134.*

\* \* \* See The particulars, No 12. p. 2181.

1639. January 31. DUNDAS *against* HIS GOODSIRE'S EXECUTORS.

GEORGE DUNDAS, Oye to the Goodman of Newliston, pursues the Executors of his umquhile Goodsir, for payment of 500 merks, left him in legacy by his Goodsir, by a codicile made after his testament, bearing this legacy; and the defender quarrelling this alleged codicile, as not sufficient to give him right to the legacy, in respect there was a perfected principal testament bearing no such legacy; and this note made thereafter, is but a testificate made and subscribed by Mr John Boog, minister of the parish, wherein the defunct died, which is neither subscribed by the testator, who could write, nor by the minister in his name, and at his command; but is only given out under the form of a notary's instrument, and so wants all formal solemnities requisite to acts testamentary, to which the law only privileges ministers to be notaries; attour, the process cannot be sustained, except all the legatars in the principal testament were called thereto; these allegiances were repelled, and the codicile sustained, being in substance and matter found good in itself; and no necessity was found to call the the rest of the legatars. See WRIT.

No 38.  
One legatee need not call other legatees.

*Fol. Dic. v. 1. p. 134. Durie, p. 873.*

1663. January 16. The EARL of ROXBURGH *against* KINNEIR, MINISTER.

MR ANDREW KINNEIR, minister at Calderclear, in *anno* 1650, obtains a decret of locality against his parishioners, and namely against the Earl of Roxburgh, for his lands of Auchniounselhill and Millburnhead, which are burden-

No 39.  
Citing of tenants is not sufficient, where the master is