

1629. *July 9.* DAVID URQUHART *against* WILLIAM DICK, The EARL of CAITHNESS, &c.

GAWIN Dumbar has a pension, granted him by the Earl of Caithness, of forty bolls of bear, for the space of 19 years, requiring the first term's payment *in anno* 1610; and, for sure payment thereof, is assigned to be paid by the tenants of certain lands in Caithness. He obtained decret and letters, conform to his pension, and apprehends possession, by uptaking of the same from the tenants by the space of five or six years. William Dick, and some other merchants in Edinburgh, comprise the said lands from the Earl, and intromit with the hail duties by the space of ten years. The pensioner makes David Urquhart assignee to the pension. He pursues the tenants, the Earl of Caithness and William Dick and his colleagues, for the pension. William Dick alleges, They cannot be convened as intromitters with the rents of the lands libelled; because their intromission was by virtue of their public infestment, proceeding upon a comprising, whereof they have been in possession by the space of 12 years; and this pension being given but by a laic person, cannot be esteemed a real right, as pensions given by a kirkman. The Lords found the exception relevant.

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1629. *July 11.* ARCHIBALD MONCREIFF *against* The LAIRD of BALNAGOWN and His VASSALS.

A COMPRISING deduced on the 12th day of December 1628, sustained for the farms 1628, against the person and his tenants against whom decret was obtained, for the sums whereupon the comprising was led; by reason the time of the payment of farms was not come; although both Whitsunday and Martinmas were bypast before the comprising, and albeit, upon the comprising, no infestment was past.

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1629. *July 12.* PURVEYANCE *against* The LAIRD of CRAIGIE-WALLACE.

PURVEYANCE charges Craigie-Wallace to make payment to him of a sum contained in his bond, with the penalty and annualrent thereof since the Laird Craigie-Wallace was denounced to the horn. It was alleged by suspension, That the charges could not exceed the sum contained in the bond, which bore no annualrent. It was replied by the charger, That, by the Act of Parliament, the annualrent was due after horning; and being *de jure* accessory to the bond, might be charged for. The Lords found, That the charger could not call for more than was in his bond; but reserved action to pursue for the annualrents after the horning.