

summoned; notwithstanding whereof, there was found no necessity of continuation, the cause being of this nature, for making arrested goods forthcoming, and accessory to a sentence.

No 9.

Act. *Saudlands.*Alt. *Belsber.*Clerk, *Clerk.*• *Fol. Dic. v. 2. p. 178. Durie. p. 375.*1628. *June 20.* A. against B.

In improbations, if the father and the son both be called, if the father die, the process ceases against the son till new summons be raised against him, except the pursuer insist only for production of rights made to the son himself.

No 10.

*Auchintock, MS. p. 168.*1629. *March 19.* HERRIES against Lord HERRIES.

A SUMMONS bearing that a charter was subscribed and perfected to the pursuer of certain lands, and sasine taken thereupon; after the taking whereof the subscriber of the charter having borrowed the same from the pursuer's father (the pursuer being then minor) to be seen by him, the said subscriber and granter cancelled the same, and sinsyne retained possession of the lands disposed; therefore the pursuer craved both that the defender should make up the evident again, and also refund the profits of the lands meddled with by the defender since the cancellation thereof. This action was sustained, and both the conclusions of the summons found relevant, albeit both craved together, and no necessity found first to pursue for the making up of the evident, and then to pursue thereafter for the mails and duties; but the whole summons was referred to the defender's oath *simpliciter*.

No 11.

Clerk, *Hay.**Fol. Dic. v. 2. p. 179. Durie. p. 438.*1629. *December 18.* LAWSON against Earl of LOUTHIAN'S Heir.

AN action to hear and see a cancelled contract made up, and restored again to its integrity, and also concluding a reduction and improbation, was sustained, being pursued in one summons, to infer both conclusions.

No 12.

Act. *Fouls.*

Alt. ———

Clerk, *Scot.**Fol. Dic. v. 4. p. 179. Durie, p. 476.*