

tour) could found a pursuit. DUPLIED,—He insisted as apparent heir, and cited my Lord Balmerino's case against Airlie, wherein they found not only that an apparand heir might reduce a deed done to his prejudice *ex capite lecti*, but even a personal creditor.

My Lord Gosford demurred on this : for *Durie 11th February 1635, Muire*, seems to be contrary.

*Act. Cunyghame.*

*Alt. Yeoman.*

*Advocates' MS. No. 112, folio 87.*

1671. *January 27.*

GORDON of CLUNY *against* \_\_\_\_\_

THIS was a charge upon a contract ; against which it was ALLEGED,—That the charge was null, because the contract was summarily registrate after the death of one of the parties contractors, whereas it should have been registrate by way of action ; for the registration of a writ is a formal decret ; now a decret can never be obtained at a dead man's instance, nor yet against one that's dead. *2do*, The clause of registration giving warrant to such a person to compear and give his assent to the registration thereof, is of the nature of a mandate ; but *mandatum expirat tam morte mandatoris quam mandatarii*.

And this the Lords found in the Inner-house, in the case of *Kylle and Seaton* ; See a case not unlike, *13th July 1610, Gordon and Mackie*.

*Act. Nicolsonsone.*

*Alt. Seaton.*

*Advocates' MS. No. 113, folio 87.*

1671. *January 27.* BISHOP of CAITHNESS *against* ANGUS MACKY of Bighouse.

THIS is a suspension upon this reason, that whatsoever bonds are granted *ob causam datam causa non secuta*, the same are null by way of exception ; but *ita est* this bond charged on is such in so far as he granted it in contemplation of a tack of teinds which the Bishop was to set him, and which is never yet done ; and that this was the cause of the bonds, refers it to the charger's oath.

THIS WAS FOUND RELEVANT.

*Act. Thoires. Alt. \_\_\_\_\_.*

*Advocates' MS. No. 114, folio 87.*

1671. *January 27.*

Anent VALIDITY of a TICKET.

THIS was a suspension upon this reason, that the ticket charged on is null, because it wanted the writer's name. It was ANSWERED, that it was all written with the suspender's own hand, and so they condescended on him as the writer of it.