

1679. *November 29.* ROBERTSON *against* HOME of ECCLES.

IN a case, Robertson against Home of Eccles, Marcus found an apparent heir's voluntary paying annualrent for a sum owing by his father's bond, (to whom he was not otherwise heir,) was not such a passive title as to be a homologation by entering in use of payment, or to lay an obligation upon him to pay the rest of it, (which would have bound him to annualrent, if it had been his own bond not bearing a clause of annualrent, or if it had been granted by him in his minority, and he had paid annualrent for it after his majority, for that would have tied him;) for his civility ought not to make him liable to pay the rest of the debt; much less then can it be an argument for other creditors to crave payment thereon; for an apparent heir may voluntarily pay one, and not another. See Dury, *26th January 1628, Commissary of Dunkeld*; and *penult. July 1630, Johnston.* *Vol. I. Page 66.*

1679. *December 6.* JOHN BEATON, Minister at Ayton, *against* —————.

MR John Beaton, minister at Ayton, pursues a spuilie of his horse feeding upon grass designed to him by the bishop, upon a visitation, for pasturage of two kine and a horse, conform to Act of Parliament.

ALLEGED,—The designation was null, and the heritors not called. ANSWERED,—It stands unreduced. Farther ALLEGED,—It was the heritor's own grass, till the minister had obtained a decreet for that grass upon his designation; and so he might poind the minister's horse.

The Lords found it a spuilie, and decerned largely for the price of the horse. *Vol. I. Page 67.*

ANENT CONJUNCT PERSONS.

It was debated before the Lords, whether a cousin-german, or a cousin-german once removed, receiving a disposition from a bankrupt, is to be reputed such a conjunct person as is meant by the Act 1621; for they may marry together, and the relation, as to the design of the Act of Parliament, must stop somewhere.

It is affirmed the Lords found a cousin-german such a conjunct person. See Mackenzie's Observes on that Act. *Vol. I. Page 67.*

1679. *December 10.* The EARL of WINTON *against* The PROCURATOR-FISCAL of LINLITHGOW.

IN the suspension by the Earl of Winton of the Procurator-Fiscal of Linlithgow his charge; it went to interlocutor, if a blanch vassal of his Majesty's, having his lands *pro omni alio onere, &c.* without a special citation or warning, requiring him to be there present, be obliged to answer at the sheriff head-