

1682. *December.*

The ARCHBISHOP of ST. ANDREW'S and The LAIRD of MONIMUSK *against* The MARQUIS of HUNTLY.

The Marquis of Huntly having obtained a charter from the late Archbishop of St. Andrew's of the land of Pitsichie, Invers, Ardneidly, and others, belonging to the Laird of Monimusk, which he held formerly of the See of St. Andrew's, and being distressed by the Marquis of Huntly for the feu-duties, he suspended both the Marquis and the Archbishop of St. Andrew's upon double-poining; and there being likewise a declarator raised at the instance of the Archbishop against Monimusk, who thought it not his interest to change his superior; the Lords found, That the Archbishop could not interpone and interject a superior betwixt him and Monimusk, the vassal, without the vassal's consent; and therefore preferred the Archbishop to the feu-duties.

Fol. Dic. v. 2. p. 406. Sir P. Home MS. v. 1. No. 312.

No. 12.

Found in conformity with Douglas against Torthorell, No. 10. p. 15012.

1741. *June 9.* SIR JOHN MAXWELL *against* M^CMILLAN.

The Lords found, That a superior cannot divide the superiority, or convey it to different persons, without the vassal's consent; for he has no power to deteriorate the condition of his vassal, by putting him to the expense of double entries, or by increasing the number of the persons to whom the feudal services are due.

Fol. Dic. v. 4. p. 312. C. Home. Kilkerran.

No. 13.

* * This case is No. 190. p. 8817. *voce* MEMBER OF PARLIAMENT.

1774. *August 5.* ROBERT DREGHORN *against* GEORGE HAMILTON.

Hamilton was proprietor of the Hall-mailing of Provan, and of the lands of East-mailing of Easter Cunshlee, and also of the lands of Wester-mailing of Easter Cunshlee, holden of the town of Glasgow.

Dreghorn having made a purchase from the Magistrates of Glasgow of those parts called the Easter-mailing of Easter-Cunshlee, and the Wester-mailing of Easter Cunshlee, brought a process of poining the ground against Hamilton and his tenants; in which the Lord Ordinary, "in respect the pursuer derives right from the town, and is not interposed between the town and the defender, decerned in terms of the libel, and also found expenses due."

Hamilton reclaimed to the Court, upon the following grounds: *Imo*, That the words of the feu-contract are exceedingly strong and express, that he should have

No. 14.

Whether, in the case of lands once belonging to separate proprietors, but now to one, whose feu-contract bore a special *provisio*, that they were to be holden of the Magistrates and