

No 648. but *verba narrativa* of the superior, and prove noway to be heir to the said George. It was *alleged* by the pursuer, That he bruiked the same lands that the said George held in heritage, by progress, as he had proved, and has the reversion of the same in his hands, as heir foresaid; and albeit the said Patrick, his grandfather, was not served as heir to his father George, it was enough that he was put in his lands heritably by the said Lord, calling him son and apparent heir to his said father; and also, it was *in facto antiquo* by the space of six score years and more; which allegiance of the pursuer was found relevant; and found that the pursuer had proved enough for the instruction of his summons, by the allegiance foresaid.

Fol. Dic. v. 2. p. 271. Maitland, MS. p. 178.

No 649. 1669. December 4. JEFFRAY against JEFFRAY.

A DONATAR having made faith at the passing of the gift, that it was for his own behoof, no witnesses were thereafter admitted against him, nor other presumptive evidence that the gift was simulate.

Fol. Dic. v. 2. p. 271. Stair. Gosford.

. This case is No 263. p. 11598, *voce* PRESUMPTION.

No 650. 1708. July 20.
THOMAS NICOL, Writer in Edinburgh, against JOHN PARK of Fulfoordlies.

IN a count and reckoning, at the instance of Thomas Nicol against Park of Fulfoordlies, for his intromissions with the rents of the lands of Nethermoninet, the LORDS found an old tack not relevant to prove the rental, unless possession and payment conform were also proved.

Fol. Dic. v. 2. p. 271. Forbes, p. 269.