

No 26.

1716. July 5. GLENDINNING against GORDON.

IMMEMORIAL possession by a charter, though without a sasine, found relevant to continue possession, until the pursuer produced a sufficient right to the subject in debate.

Fol. Dic. v. 2. p. 88. Bruce.

*** This case is No 21. p. 9643, *voce* PART and PERTINENT.

No 27.

1749. July 5. CLEUGHTON and SELLER, Competing.

IT is a maxim in law, that *nemo potest mutare causam suæ possessionis*; that none can change the title of his possession by his own deed. But this was found not to apply to the case where William Seller's author had entered into possession upon an adjudication; and having discovered a defect in it, had deduced a new adjudication on the same ground of debt; and to which he now, in the competition with Cleughton, ascribed his possession; for that was not understood to be a changing the title of his possession.

Kilkerran, (POSSESSION.) No 1. p. 578.

1773. February 12.

JOHN SINCLAIR of Ulbster, and his Curators, and Others, *against* JOHN SUTHERLAND of Wester, and Others.

No 28.

Possession of a privilege cannot be summarily inverted; and the minority of the person exercising the privilege, which was that of approving the leets of Provost and Bailies for a royal burgh, is no good objection.

A COMPLAINT was presented by Mr Sinclair of Ulbster, and his Curators, on a recital of Ulbster's privilege of superintendency, (No 18. p. 163.) and setting forth, that a leet for the election of Provost and Bailies for the burgh of Wick, was, previously to the last Michaelmas, in due time presented to, and approved of, by Mr Sinclair of Ulbster, and his curators; that, upon the fore-said leets being presented, the minutes of election bear, 'Compeared John Sutherland of Wester, in name of himself, and the other burgesses in the town; and represented, that, for some considerable time past, the family of Ulbster had, without any authority or just title, assumed a negative on the election of Magistrates of the said burgh, by over-persuading the Magistrates to present a leet to Ulbster for his approbation, pretending, that, without such approbation, no Magistrate could be chosen; which was disconform to the charter of erection in 1589, and inconsistent with the liberties of a royal burgh.' And, as Ulbster's privilege had been infringed on this occasion, praying, to reduce and make void the election that ensued, and to declare Mr Sinclair of Harpsdale to be the Provost duly elected, who was in Ulbster's leet for that office; and although he had fewer votes than Wester, who was not in said leet, was alone validly elected.