

No. 2. 1736, Dec. 9. SHAW, and JACK, Her Husband, *against* SHAW.

THE Lords adhered to the Ordinary's interlocutor, after pretty full reasoning, and unanimously, except Drummore and the President; and the reason was, that the disposition bearing the money paid and advanced by the mother, the money was presumed her money, and therefore her oath proved sufficiently the depositions against the daughter, though she could not by a voluntary deed revoke or destroy it. *Vide* M'Kenzie's observations on the act 1621.

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### NON-ENTRY.

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No. 2. 1743, Dec. 8. NAPIER *against* KINCAID.

WE agreed in opinion, that Miss Cunningham was heir of the Crown's vassal, and, after Napier's purchase of the superiority, of Napier's vassal, in the same way as we found 19th December 1740, Sir John Carnegie against Stuart.\* But we thought there was no process, since Miss Cunningham was not called, and her sisting herself did not supply it.

No. 3. 1746, May —. CAPTAIN CHALMERS *against* HIS VASSALS.

THE Lords (19th June 1746) in respect the Captain was only in right of apprisings, and not entered heir to the former superiors, adhered to the Ordinary's interlocutor, finding that in this special case, no retoured duties, or non-entries, are due to him. 29th Adhered,—*renit.* Justice-Clerk, Minto, Kilkerran, Dun, *et me.* May 1746, Upon appeal affirmed, because of the uncertainty who was superior.

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### OATH.

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No. 1. 1737, July 15. AITCHISON'S ASSIGNEE *against* DRUMMOND.

See Note of No. 10, *voce* ADJUDICATION.

No. 2. 1741, June 5. REPRESENTATIVES OF BARCLAY *against* COUPER.

MR BARCLAY, in counting with his employer, Mr Law, gets credit for L.50 sterling, paid by him to Mr Couper, as manager for the Earl of Northesk in the sale of an estate by him to Mr Law. Mr Couper sued Mr Barclay for payment of this L.50, and Mr Barclay was willing to give his oath that it was not resting owing; but Mr Couper would not take his oath; and after Mr Barclay's death, recovered decret before the Sheriff;—and Drummore, Ordinary, affirmed the decret;—but we unanimously altered, and found that Mr Couper behoved to prove resting owing.

\* No. 5, *voce* MEMBER OF PARLIAMENT.