

Nevertheless, it was in this case found, that the general service to the apparent heir, against whom the adjudication was led, was a sufficient title to quarrel not only the decree of constitution, but also the adjudication, upon whatever ground.—  
*Vide* 19th January, 1669, Johnston *contra* Sir Charles Erskine, No. 10. p. 213.

*Kilkerran*, (TITLE TO PURSUE) No. 2. p. 579.

No. 65.

1746. November 6. HORNS *against* STEVENSON.

The defender in a reduction and improbation having produced an adjudication, with a sasine thereon, objected to the pursuer's title, which was only a general service, as not a sufficient title to carry on a reduction of an adjudication on which infestment had followed.

The Lords repelled the objection.

A general service has always been sustained as a sufficient title to reduce all right to whatever subjects belonged to the predecessor, although the predecessor was thereon infest, not only because it has been thought unreasonable to put one to the expense of a special service and infestment, till it should appear whether he was to have any benefit by it, but that the objection to the title would otherwise be a circle; for it is a good objection to a special service, that another deriving right from the predecessor stands infest in the subject: The heir served in general must therefore be allowed to have a good title to reduce, else the heir cannot have a title at all.

*Kilkerran*, No. 3. p. 579.

No. 66.

If a general service is a sufficient title in reduction of rights on which infestment has followed?

1747. February 28.

MAGISTRATES OF KILMARNOCK *against* WILSON and CAMPBELL.

James Wilson and Margaret Campbell being charged upon a decree of the Baron-bailie of Kilmarnock, to make payment to the Magistrates and their tacksmen of the rate and duty of twelve pennies Scots for each boll of salt-retailed by them within the said burgh, from Martinmas 1744 to Martinmas 1745, liquidated to £.3 7s. Scots due by Wilson, and to £.5 2s. Scots due by Margaret Campbell; and, at the same time, sundry of the other burgesses being pursued for certain rates and duties upon lint-seed, bear, barley, and meal, sold by them within the burgh, Wilson and Campbell suspended, and the others advocated.

At discussing the suspension, the only reason insisted on was, That no right or title whatever to the duty claimed was given out by the chargers, nor had been produced in the decree. But in regard use and wont of uplifting the duty upon salt was acknowledged by the suspenders' procurator to be proved, and that the

No. 67.

Use of uplifting a small duty by a body corporate, a sufficient title *in possessoria*.