

1748. June 16. DUGUID *against* FARQUHARSON.

No. 70.

A person not infeft may maintain his possession, and pursue an action of molestation, and for declaring that his neighbour has no right to make high-roads, or pasture on his grass or muirs, &c.—See APPENDIX.

*Fol. Dic. v. 4. p. 377.*

1749. February. PAXTON *against* HUNTER.

No. 71.

An assignee may competently pursue in name of his cedent; but if the process be not well founded, when raised in his own name, his cedent's compearing and concurring will not supply the defect.

If an action raised in the name of an assignee without a sufficient title, will be validated by the concurrence of the cedent?

And therefore, in this case, where Paxton, upon a bare minute of sale from the proprietor, pursued a removing in his own name, he was found to have no title in his person to pursue such process, nor was his author's compearing and concurring found sufficient to support the action, in respect there was no summons in his name.

*Kilkerran, No. 6. p. 581.*

1749. June 16. CRAWFURD of Crawfordland *against* WILLIAM CRAWFURD.

No. 72.

John Crawford of Crawfordland disposed his estate, reserving his liferent, to John his eldest son; having before disposed the moveables he should have at his death to his sons William and Andrew, reserving power to alter; and on death-bed revoked this disposition, and disposed them to William.

A person disposing his heirship moveables, and on death-bed revoking, and disposing them to another, the revocation was not sustained to give access to the heir to reduce.

John, the eldest son, pursued William to account to him for the heirship moveables, which could not be disposed on death-bed.

The Lord Ordinary, 22d December, 1748, "sustained the defence, that the heirship moveables were disposed to the defender by the defunct: And in respect of the former disposition by the defunct in favour of the defender, and his brother Andrew, found, that the last disposition was not reducible *ex capite lecti*."

Pleaded in a reclaiming bill: A general disposition of moveables does not comprehend heirship moveables; or if it does, this deed is revoked, the disponent having expressly revoked all deeds in favour of any other person; so that it can only support the defender's claim to the one half, to which he was thereby provided.

Answered: The revocation is not in favour of the pursuer; and the disposition is onerous, bearing to be for services performed, and which it is notorious he did